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T R A C T S,  
CONCERNING THE  
ANCIENT AND ONLY TRUE LEGAL  
M E A N S  
O F  
NATIONAL DEFENCE,  
B Y A  
FREE MILITIA.

- I. The ancient Common-Law Right of *associating with the Vicinage*, in every County, District, or Town, to support the civil Magistrate in maintaining the Peace.
- II. A *general Militia*, acting by a well-regulated *Rotation*, is the only safe Means of defending a *free People*.
- III. Remarks concerning the trained Bands of the City of *London* : — With an Addition, concerning the Militia-Laws for *London*.
- IV. Hints of some general Principles, which may be useful to military Associations.

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By GRANVILLE SHARP.

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L O N D O N :

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THE  
ANCIENT COMMON-LAW  
RIGHT  
OF  
ASSOCIATING WITH THE  
VICINAGE,

In every County, District, or Town, to support the  
Civil Magistrate in maintaining the Peace.



THE UNIVERSITY OF CHICAGO

1900

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**M**AN being, by *nature*, a social creature, it is *natural* for him to *associate* with his brethren and neighbours, for common defence against all *unjust violence*; and such *association* being *just* and *reasonable*, as well as *natural*, we have not only a *right* thus to associate, but are even *bound* to do it, by a branch of the *common-law*, which cannot *legally* be changed : for it is fixed upon *all* men,  
in

in their respective districts and countries, as an indispensable DUTY, by “ THE  
 “ LAW OF NATURE AND NATIONS,  
 “ *that we may become assisting*” (says COWEL, tit. 2.) “ *both to our parents and*  
 “ *country; and REPELL FORCE AND IN-*  
 “ *JURY: and from hence it comes,*” (says he,) “ *that whatsoever we do, for the de-*  
 “ *fence of our own bodies, is adjudged legal.*”  
 For which he cites Bracton, l. i. c. 6. †  
 num.

† This c. 6. seems to be an error of the press, instead of c. 5. num. 7. the proper reference to Bracton’s declaration concerning the NATURAL RIGHT of all men to RESIST VIOLENCE AND INJURY.— “ *Hoc autem jus gentium solum hominibus commune est, veluti erga Deum religio, ut parentibus et patriæ pareamus, ut vim atque INJURIAM PROPULSEMUS, nam DE JURE hoc evenit, ut quod quis ob sui tutelam corporis fecerit, JURE fecisse existimetur. Item cum inter homines cognitionem quandam constituit natura, consequens est hominem homini insidiari nefas esse.*” But this noble constitution of nature, whereby we ought to esteem all mankind as brethren, is utterly corrupted by the hardened iniquity of temporal governments! The laws of nature and sound policy require every industrious citizen to be exercised and expert in “ *Arms of Defence and Peace,*” for mutual protection; but these, alas! are too generally discouraged and neglected,

num. 7. So the Author of Doctor and Student, in his second chapter, concerning the law of Nature and Nations, and the law of Reason, asserts, that, "*by the law of reason, it is lawful to repel force with force; and that it is THE RIGHT OF EVERY ONE*" (*fas est unicuique se tueri, &c.*) "TO DEFEND HIMSELF  
" AND

glected, whilst *arms of offence and robbery* are eagerly preparing in every port! The unprincipled and abandoned part of mankind, that lay aside all *discernment between right and wrong*, are prompted, by royal Proclamations, not merely to "*covet their neighbours goods,*" but to *lay wait for and take* them; whereby war is more notoriously declared, and is infinitely more active *against trade, and the honourable merchants of the world*, than against the standing armies and navies of our enemies! Thus the seas swarm with piratical banditti, carrying letters of *dispensation for dishonesty*, and "*the earth is filled with violence!*" Have we not cause to expect some tremendous vengeance to vindicate the *righteousness of God*? or that the Almighty will once more command the elements to sweep *corrupted man* from the face of the earth? We are secured indeed, by divine promise, from any future general destruction, by a deluge of *water*; but the elements of *tempest* and *fire* are still reserved to execute the wrath of God, and are frequently mentioned as the instruments of his vengeance. Isaiah xvii. 13. Psa. lxxxiii. 13-15. cxlviii. 8. Dan. ii. 35. 2 Thess. i. 8. 2 Pet. iii. 7.

“ AND HIS PROPERTY AGAINST UN-  
 “ JUST VIOLENCE.”† And again, in his  
 fifth chapter, concerning the first founda-  
 tion of English law, *Reason*, he again re-  
 peats the maxim, that “*it is lawful to re-*  
 “ *pell force with force for the defence of the*  
 “ *body, due circumstances being observed.*”\*  
 Now, as the Laws of *reason* and *nature*  
*are immutable*,† this *natural right* of *as-*  
*sociating*

† Lex rationis permittat plurima fieri, ut scilicet  
 quod licitum est vim vi repellere, et quod *fas est unicui-*  
*que se tueri, et rem suam defendere contra vim injustam.*  
 Doct. et Stud. c. ii p. 8.

\*—“ Quod licitum est vim vi repellere pro tuitione  
 “ corporis, debitis circumstantiis servatis.” C. 5.  
 p. 14. b.

† “ Et quod LEX RATIONIS in corde scribitur, ideo  
 “ *deleri non potest, nec etiam recipit mutationem ex loco*  
 “ *nec tempore, sed ubique, et inter omnes homines,*  
 “ *servari debet.* Nam JURA NATURALIA IMMUTA-  
 “ BILIA SUNT, ET RATIO IMMUTATIONIS EST,  
 “ QUOD RECIPIUNT NATURAM REI PRO FUNDAM-  
 “ MENTO, *quæ semper eadem est, et ubique, &c.*”—  
 “ Et contra eam” (legem rationis vel naturæ) “ non est  
 “ præscriptio, vel ad appositum statutum sive consuetu-  
 “ do. Et, si aliqua fiat, non sunt statuta, sive consue-  
 “ tudines, sed corruptelæ.” Doct. et Stud. c. ii. p. 5.



*sociating* for common defence and peace, and the *natural right* of every individual to *repel force with force*, in defence of himself and property, can never be annulled by *any act of parliament*, but must ever be esteemed as *immutable rights of the common law*, and must always remain in force, unless the government should unhappily *cease to be* LEGAL, by setting aside the first foundations of the LAW! Ancient statutes, however, though not the foundation of *these rights*, yet bear ample testimony to the exercise or usage of them: for, what is “*the power of the* “*countie*,” so often mentioned in the ancient law and statutes, but *an armed association of the vicinage?*—an *association*, from which no layman, from 15 to 60 years of age, was exempt. See Lambard’s *Eirenarcha*, third book, p. 316, title, “*Power of the Countie*.”—“*That* “*the Justices of the peace, Sherife, or*

“ *Under-sherife, ought to have the aide and*  
 “ *attendance of ALL the KNIGHTES, GEN-*  
 “ *TLEMEN, YEOMEN, LABOURERS,*  
 “ *SERVAUNTS, APPRENTICES, and VIL-*  
 “ *LAINES : and likewise of WARDES :*  
 “ *and of other YONG MEN that be above*  
 “ *the age of xv. years ; for ALL of that*  
 “ *age are bound to have harnesse\* by the*  
 “ *statute*

\* The word *Harnesse* was used to express all necessary *accoutrements* for war, according to the rank of the bearers, and comprehended not only belts and armour, but likewise *arms and weapons*, of every sort, that, for the time being, might be esteemed most useful ; so that in the old Dictionary, by Minshew, (printed in the time of king James I.) the word is explained by the Greek plural, *τα ὄπλα*, which signifies *arms*, or instruments of war of all sorts in general ; and this is the sense also of the word *Armure*, as used in the above-cited statute of Winchester, (13 king Edw. I.) which, in the old English version of it, is rendered *Harneis*, viz. “ *And*  
 “ *further, it is commanded, that EVERY MAN have in*  
 “ *his house HARNEIS,*” (in the original statute, written in old French, the word is “ *Armure,*” which, by the context, must necessarily be understood to comprehend *Arms* as well as *Armour*,) “ *for to keep the peace, after*  
 “ *the ancient assise : that is to say ; (2) EVERY MAN,*  
 “ *between 15 years of age and 60 years, shall be assessed*  
 “ *and sworn to ARMOR, according to the quantity of their*  
 “ *lands and goods : (3) that is to wit ; from £15 lands*  
 “ *and*



“ statute of Winchester.” See also, in page 479 of the Eirenarcha, a farther testimony that the law requires all laymen not only to have *arms*, but also to be *well exercised therein*. See title, “ *Archerie*.” “ *If any man, being the QUEEN’s subject,*” (the author wrote in the reign of queen Elizabeth,) “ *and not have reasonable*” “ *cause or impediment, and being within*” “ *the age of 60 years, (except spiritual*” “ *men, justices of one bench or other,*

B 2

“ justices

“ *and goods, 40 marks, AN HAUBERKE, A BREAST-PLATE OF IRON,*” (“ *shapell de ferre,*”) “ *A SWORD, A KNIFE, AND AN HORSE: And from £10 lands and 20 marks goods, AN HAUBERKE, A BREAST-PLATE OF IRON, A SWORD, AND A KNIFE: (5) And from £5 lands, A DOUBLET, A BREAST-PLATE OF IRON, A SWORD, ANE A KNIFE: (6) And from 40s. land and more, unto 100s. of land, A SWORD, A BOW AND ARROWS, AND A KNIFE: (7) And he that hath less than 40s. yearly shall be sworn to keep GISARMS,\* KNIVES, AND OTHER LESS WEAPONS: And all other that may shall have BOWS AND ARROWS out of the forest, and in the forest ROWS AND BOULTS, &c.” St. ii. c. 6. A. D. 1285.*

\* Gisarm, properly “ *GUISARME,*” (ou) “ *PERTUISANE, arme militaire fait comme une lance, ou comme une longue bayonnette.*”

“ justices of assise, and barons of the ex-  
 “ chequer,) have not A LONG BOW AND  
 “ ARROWES READIE IN HIS HOUSE, *or*  
 “ *have not* USED SHOOTING THEREIN;”  
 (which is a clear command to be *exercised*  
 in arms;) “ or have not, for EVERY  
 “ MAN-CHILD IN HIS HOUSE, (betweene  
 “ 7 yeeres and 17 of age,) a bow and 2  
 “ shafts; and for every such, being a-  
 “ bove 17 yeeres, a bow and 4 shafts;  
 “ or have not BROUGHT THEM UP IN  
 “ SHOOTING, &c. he loses 6s. 8d. for  
 “ each month.” And, under the same  
 head, he informs us, that, if any man  
 above the age of 24 years, “ have shot at  
 “ any marke under *eleven score yards*,”  
 (*viz.* one furlong, or 220 yards,) “ *with*  
 “ *any prick-shaft or flight*,” he shall  
 “ lose 6s. 8d. for every shot.” Also,  
 “ if the inhabitants of any towne have not  
 “ made and continued their Butts as they  
 “ ought to do,” — “ lose 20s. for every 3  
 “ moneths;” (Eirenarcha, 4 book, p.

478, 479; ) for which he cites 33 Hen.  
 VIII. c. 9. in which, indeed, the obli-  
 gation for *every man* to have arms, and  
*be exercised* therein, is expressed still in  
 stronger terms, *viz.* “—*that butts be*  
 “ *made, on this side the feast of St. Mi-*  
 “ *chael the Archangel next coming, in e-*  
 “ *very city, town, and place, by the inha-*  
 “ *bitants of every such city, town, and*  
 “ *place, ACCORDING TO THE LAW OF*  
 “ *ANCIENT TIMES USED, and that the*  
 “ *said inhabitants, and dwellers in every*  
 “ *of them, be COMPELLED TO MAKE*  
 “ *AND CONTINUE SUCH BUTTS, upon*  
 “ *pain to forfeit, for every 3 months so*  
 “ *lacking, 20s. And that THE SAID*  
 “ *INHABITANTS SHALL EXERCISE*  
 “ *THEMSELVES WITH LONG-BOWS IN*  
 “ *SHOOTING AT THE SAME, and else-*  
 “ *where, in holy days and other times*  
 “ *convenient. And, to the intent that*  
 “ *EVERY PERSON may have bows of mean*  
 “ *price,*

“ *price*, be it enacted, &c.” § iv. and v. Thus the law not only *permits*, but absolutely *requires*, EVERY PERSON to *have arms*, and be EXERCISED in the use of them.

The exercise of the Long-bow was formerly esteemed the most effectual military discipline for the defence of the kingdom, and is so declared in another act of parliament of the same year, cap. 6.\* and, therefore, as the law, at that time, *required* EVERY MAN to be *exercised* in the use of the *then* fashionable weapons, the reason of the law holds equally

\* — “ *Divers gentlemen, yeomen, and serving-men,*  
 “ now of late have laid apart the good and laudable *exercise* of the Long-bow, which always heretofore hath  
 “ been *the surety, safeguard, and continual defence, of this*  
 “ *realm of England, and an inestimable dread and terror to*  
 “ *the enemies of the same.*” (Extract from the preamble to the act of 33 Hen. VIII. c. 6.)

Hence it is plain, that “ gentlemen, yeomen, and serving-men,” were required, by law, to be *exercised* in the use of *such arms* as were esteemed the best for the safeguard and defence of the realm.

qually good, to *require the exercise of* ALL MEN in the use of the present fashionable weapons, the *musquet and bayonet*.

But even, at that time, the use of musquets, or guns, was allowed to the inhabitants of all cities, boroughs, and market-towns, and for the very same reason, (the defence of the realm,) by a provisional clause of the last-mentioned act, §. vi. “ Provided alway, and be it enacted, &c. that it shall be lawful, from  
 “ henceforth, to all gentlemen, yeomen,  
 “ and serving-men of every lord, spiritual and temporal, and of all knights,  
 “ esquires, and gentlemen, and to ALL  
 “ THE INHABITANTS *of cities, bo-*  
 “ *roughs, and market-towns,* of this  
 “ realm of England, to shoot with any  
 “ hand-gun, demihake, or hagbut, at any  
 “ butt or bank of earth, only in *place con-*  
 “ *venient for the same,*” (whereby it appears that proper places for exercise  
 should

should be appointed in every town,) “ for  
 “ that every such hand-gun, &c. be of  
 “ the several lengths aforesaid, and NOT  
 “ UNDER. And that it shall be lawful,  
 “ to every of the said lord and lords,  
 “ knights, esquires, and gentlemen,  
 “ and the INHABITANTS of EVERY CI-  
 “ TY, BOROUGH, AND MARKET-  
 “ TOWN, *to have and keep in every of*  
 “ *their houses any such hand-gun or hand-*  
 “ *guns, of the length of one whole yard,*  
 “ &c. and NOT UNDER, *to the intent to*  
 “ *use and shoot in the same, at a butt or*  
 “ *bank of earth only, as is above said,*  
 “ *whereby they and* EVERY OF THEM, BY  
 “ THE EXERCISE THEREOF, *in form*  
 “ *above said,* MAY THE BETTER AID  
 “ AND ASSIST TO THE DEFENCE OF  
 “ THIS REALM, WHEN NEED SHALL  
 “ REQUIRE,” &c. This statute is still  
 in force.

Every



Every *temporal person* was (formerly) liable to pecuniary penalties; “*if he have not*” (says Lambard) “*and keep not in readinesse, such horses, geldings, weapon, armour, or other furniture for the wars, as, after the proportion of his abilitie, he ought to have and keepe.*” (Eirenarcha, book iv. c. 4, p. 480.) Thus stood the law so late as the latter end of queen Elizabeth’s reign, when the book last-cited was published; and the general tenor of the doctrine, respecting the *right of Englishmen to have arms*, hath since been confirmed, by the *Declaration of Rights in the Act of Settlement*, (1 Wm & Mary, st. 2, c. 2,) though it seems now to be limited to *Protestant subjects*, viz. “*That the subjects which are Protestants MAY HAVE ARMS FOR THEIR DEFENCE, suitable to their conditions, and as allowed by law.*” — This latter expression, “*as allowed by law,*” respects the limitations in the above-mentioned act

of 33 Hen. VIII. c. 6, which restrain the use of *some particular sort of arms*, meaning only such arms as were liable to be concealed, or otherwise favour the designs of murderers, as “ *cross-bows,* “ *little short hand-guns, and little bag-* “ *buts,*” and all guns UNDER CERTAIN LENGTHS, specified in the act; but *proper arms for defence* (provided they are *not shorter* than the act directs) are so far from being forbidden by this statute, that they are clearly authorised, and “ *the exercise thereof*” expressly recommended by it, as I have already shewn. And indeed the laws of England always required the people to be armed, and not only to be *armed*, but to be *expert in arms*; which last was particularly recommended by the learned chancellor Fortescue:— “ *et revera, non minus erit regno accommodum, ut incolæ* “ *ejus in armis sint experti.*”—— “ *Indeed* “ *it will be of no small advantage to the* “ *kingdom,*



" kingdom, that the inhabitants be EX-  
 " PERT IN ARMS." (De Laudibus  
 Legum Angliæ, c. xlv. p. 106.) And  
 in the notes and remarks on this book,  
 by the learned Mr. Justice Aland, we  
 find the following observations to the same  
 purpose. ' In the Confessor's laws'  
 (says he) ' it is,' " DEBENT\* UNIVERSI  
 " LIBERI HOMINES, &c. ARMA HABE-  
 " RE, ET ILLA SEMPER PROMPTA  
 " CONSERVARE AD TUITIONEM REG-  
 " NI," &c. " See" (says he) "*the laws*  
 "*of the Conqueror* TO THE SAME PUR-  
 " POSE. *The custom of the nation*" (con-  
 tinues this learned judge) "*has been, TO*  
 " TRAIN UP THE FREEHOLDERS TO  
 " DISCIPLINE; v. 13 and 14. C. ii. c. iii.  
 " and ib § 20. and title, WAR, in the  
 " *table to the statutes.*"

C 2

Among

\* " All freemen OUGHT" (*debent*, it is their duty)  
 " TO HAVE ARMS, and to keep them always ready for  
 " *the defence of the kingdom,*" &c.

Among the ancient constitutions, or ordinances, of the kingdom, recorded in the Myrror of Justices, chap. i. §. 3. we read that it was ordained, “ that every  
 “ one, of the age of 14 years and above,  
 “ *should prepare him*” (*se apprestat*) “ to  
 “ *kill mortal offenders in their notorious*  
 “ *crimes, or to follow them from town to*  
 “ *town with hue and cry.*” &c.

The true purpose and advantage of having *all the inhabitants* of this kingdom trained to arms is farther manifested in our old law books and statutes; as in the Westminster Primer, cap. xvii. on the case when any cattle are unlawfully taken and driven into any castle or strong hold &c.—“ *Le Visc'. ou le Bailife prise ove*  
 “ *luy POYAR DE SON COUNTIE, ou de sa*  
 “ *Bail', et voil assaier de faire de ceo*  
 “ *repl' des avers a celuy qui les aver prise,*”  
 &c. “ That the sheriff or the bailiff  
 “ shall take with him THE POWER OF  
 “ HIS COUNTY, or of his bailiwick, and  
 “ shall

“ shall endeavour to make replevin” (or recovery) “ of the cattle *from him that bath taken them,*” &c. And lord Coke remarks on this:—“ *Nota, EVERY MAN is bound by the Common-Law to assist not only the Sherife in his Office for the Execution of the King’s Writs, (which are the Commandments of the King,) ACCORDING TO LAW;\* but also his*  
*Bailly,*

\* “ *Commandment of the King, according to Law.*” Any commandment of the king, which falls not within this description, is *not binding or valid, in law*; for the king’s commands ought only to proceed, *by due process of the law*, through the king’s courts of justice, which are *the only proper channels* in which “ *the executive power*” of this limited monarchy can legally flow and be exerted; because it is one of the first principles of our constitution, “ *that the king can do nothing on earth, as he is the minister and vicar of God, but that only which he may do by the law.*” (“ *Nihil aliud potest rex in terris, cum sit Dei minister et vicarius, nisi id solum quod de jure potest.*” Bract. lib. iii. c. 9.) And this teaches us how to understand the trite maxim, that “ *the king can do no wrong* ;” i. e. he has no legal authority to do wrong; —“ *Potestas sua juris est, et non injuriæ.*” Bract. lib. iii. c. 9. *He has not any peculiar prerogative, either to do wrong, or to decline from doing right and justice.* “ *NON EST ULLA REGIS PREROGATIVA*

" *Baily, that bath the Sheriffe's Warrant*  
 " *in that Behalfe, bath the same Authori-*  
 " *ty,*" &c. (2 Inst. p. 193.)

## The

" *GATIVA que ex justitia et equitate quicquam derogat.*"  
 Rot. Parl. 7 Hen. IV. num. 59. But, if any king of this  
*limited monarchy* should, nevertheless, wilfully "*do*  
 "*wrong,*" and presume to rule contrary to the laws  
 and fundamental principles of the ancient constitution,  
 he ceases to be "*the minister and vicar of God,*" and, in  
 the eye of the law, immediately commences "*Minister*  
 "*Diaboli*"— "*Potestas enim juris solius est Dei, injurie*  
 "*vero DIABOLI; et cujus opera fecerit, ejus et mi-*  
 "*nister erit.*" (Fleta, lib. i. cap. 17. p. 17.) See  
 also in Bracton, (lib. iii. cap. 9. p. 107.) who, after  
 reciting the same doctrine, concerning the effect of *good*  
 or *bad* measures, adds, "*Igitur dum facit*" (rex)  
 "*JUSTITIAM, vicarius est REGIS ÆTERNI; minister*  
 "*autem DIABOLI, dum declinet ad injuriam:*" and the  
 consequence must be fatal, even to the *temporal* state of  
 such an one, because all legal authority of the sovereign  
 ceases, in this realm, if the king presumes to rule by  
 "*will and pleasure*" instead of law! "*for there is NO*  
 "*KING, where WILL governs and NOT LAW.*" "*Non*  
 "*est enim rex, ubi dominatur voluntas et non lex.*" (Bract.  
 lib. i. c. 8.) The advisers, therefore, of illegal measures  
 (or any measures that require an *undue influence* in parli-  
 ament to make them pass) are so far from deserving the  
 title of the "*king's friends,*" that they are really his most  
 dangerous enemies: they are *traitors*, whose *disloyal*  
 councils lead to certain destruction, as nothing but  
 "*righteousness can establish the throne.*"

The attack of a castle or place of arms must require disciplined troops; and therefore it was certainly necessary that “ EVERY MAN,” *so bound by the common-law to assist, should be trained to arms*, in order to fulfil his duty. And the learned Nathaniel Bacon, in his historical Discourse of the Uniformity of the Government of England, (1st part, p. 64.) remarks, that “ *the Strength consisted of the* “ *Freemen; and, though many were bound* “ *by Tenure to follow their Lords to the* “ *Wars, and many were Volunteers, yet,* “ *it seems, ALL WERE BOUND UPON* “ *CALL, UNDER PERIL OF FINE, AND* “ *WERE BOUND TO KEEP ARMS, for* “ *the Preservation of the Kingdom, their* “ *Lords, and their own Persons; and* “ *these they might neither pawn nor sell,* “ *but leave them to descend to their* “ *Heirs,” &c.*

The common-law right of the people of England *to have arms* is also clearly expressed



pressed by the great and learned judge Bracton, one of the most ancient writers of our common-law, who is justly esteemed of unexceptionable authority—

“ *ei qui justè possidet, licitum erit cum ar-*  
 “ *mis contra pacem venientem ut expellat,*  
 “ *cum armis repellere, ut per ARMA TU-*  
 “ *ITIONIS ET PACIS, quæ sunt justitiæ,*  
 “ *repellat injuriam et vim injustam, et ar-*  
 “ *ma injuriæ,”* &c. (Bract. lib. iv. c. 4.)  
*i. e.*— “ to him, who justly possesses, it  
 “ SHALL BE LAWFUL *with arms* to re-  
 “ pel him who cometh to expel, with  
 “ arms against the peace, that, by  
 “ ARMS OF DEFENCE AND PEACE,  
 “ *which are of justice, he may repel injury*  
 “ *and unjust violence, and arms of injus-*  
 “ *tice,”* &c.

The late unhappy tumults prove, that these principles of the English constitution are *as necessary* to be enforced *at present as ever they were*; for, had they not been fatally neglected and disused, the  
 abandoned

abandoned rioters would have been quelled and secured by the neighbouring inhabitants of Westminster, &c. in *their first attempts*; or, in case they had advanced towards the city, if *the proper barriers had been reserved*, the citizens would have had time to get under arms, to support their own magistrate in securing the peace of the city; for any attack upon the gates or posterns would have justified an immediate discharge of fire-arms, or other weapons, against the assailants, without waiting for the command of a peace-officer: and, as the inhabitants of each city and county are required to make good the damages sustained on such occasions by private individuals, it is plain that the *inhabitants themselves*, in their collective capacity, do form that proper POWER, from which the law requires the *prevention* of such damages, and the support and defence of the civil magistrates: for, otherwise, the law ought to

D

have

have directed the damages to be deducted from the last preceding parliamentary grants to the *army*.

If it be alleged that there can be no occasion, in these modern times, to arm and train the inhabitants of England, because there is an ample military force, or *standing army*, to preserve the peace; yet let it be remembered, that, the greater and more powerful *the standing army is*, so much more necessary is it that there *should be a proper balance to that power*, to prevent any ill effects from it: though there is one bad effect, which *the balance* (howsoever perfect and excellent) cannot prevent; and that is *the enormous and ruinous expence of maintaining a large number of men, without any civil employment for their support*: an expence, which neither the *land nor trade* of this realm can possibly bear much longer without public failure!

No



No Englishman, therefore, can be truly LOYAL, who opposes these essential principles of the English LAW,\* whereby the people are required to have "*arms of defence and peace,*" for mutual as well as private defence; for *a standing army of regular soldiers is entirely repugnant to the constitution of England and the genius of its inhabitants.*†

D 2

Standing

\* " One of the articles against cardinal Wolsey, 21 Hen. VIII. was, for that he did endeavour to subvert "*antiquissimas leges hujus regni, universumque hoc regnum Angliæ legibus imperialibus subjugare.*" " 'Tis fit that those who attempt to subvert the laws should, according to the old writ, be carried *ad golam de Newgate.*" "*Merito beneficium legis amittit, qui legem ipsam subvertere intendit.*" Mr. Justice Aland's Notes on Fortescue de Laudibus Legum Ang. p. 75.

† " No English king before Charles II. had any other guards than his pensioners and yeomen of the guard, (first appointed by that great oppressor of his people Henry VII.) save Richard II. who with the aid of 4000 profligate archers made himself absolute. 'The usurper,' (Cromwell,) 'it is notorious, kept up an army in support of himself and his tyranny,' " and " Charles II. being connived at in keeping a few (additional) guards, he insensibly increased their number,

Standing armies were not unknown,  
indeed, to our ancestors in very early  
times,

“ber, till he left a body of men to his successor, great  
“ enough to tell the parliament he would be no longer  
“ bound by the laws he had sworn to.” In the year  
“ 1697, immediately after the conclusion of the war  
“ with France, it is well known how far the soldiery,  
“ against king William’s inclination and earnest endea-  
“ vours, were reduced. On behalf of the court it was  
“ then declared that “ the army was not designed to  
“ be made a part of our constitution, but to be kept  
“ only for a little time, till the circumstances of Europe  
“ would better permit us to be without them.” “ To  
“ which it was answered, and reasons given to prove,  
“ that “ these conspirators against their country were sa-  
“ tisfied that their continuance then was an establish-  
“ ment of them for ever.” “ And it was farther obser-  
“ ved, that “ the very discontents they might create  
“ would be made an argument for the continuing of  
“ them: but, if they should be kept from oppressing the  
“ people, in a little time they would grow habitual to  
“ us, and almost *become a part of our constitution*, and by  
“ degrees we should be brought to believe them not  
“ only *not dangerous* but *necessary*; for every body saw,  
“ but few understood, and those few would never be a-  
“ ble to persuade the multitude that there was any dan-  
“ ger in those men they had lived quietly with for some  
“ years.” “ And moreover that “ without dear-bought  
“ experience any body may know before hand what  
“ will be the natural consequences of a *standing army*.  
“ From the day you set them up you set up your mas-  
“ ters; you put yourselves wholly into their hands,  
“ and are at their discretion. It is *the conquest* of the  
“ nation,

times, but they were happily opposed by them, and declared *illegal*. A remarkable instance of this is related by Sir Edward Coke, in his 7th rep. p. 443, (Calvin's case,) but with a very *erroneous* application of the doctrine, (as there are in many other instances of that particular report,) for which the chancellor or judges probably, who spoke, and not the reporter, must one day be answerable.

" It appeareth, by Bracton, lib. iii. tract  
 " 2. c. 15. fol. 134. that Canutus, the  
 " Danish king, having settled himself in  
 " this kingdom in peace, *kept* notwith-  
 " standing (*for the better continuance*  
 " *thereof*) *great armies within this*  
 " *realm.*" [Yet Bracton was more wise  
 and honourable than to conceive or hint

that

" nation, in the silentest, shortest, and surest way.  
 " They are able to dispose of your lives and estates at  
 " *will and pleasure*; and what can a foreign conque-  
 " ror do more? If after this we live and possess any  
 " thing, it is because they let us; and how long that  
 " shall be neither *we* nor *they themselves* know."—*Continued Corruption, Standing Armies, &c. considered*, 1768,  
 p. 15-17.

that *great armies*, so kept by the king, were proper instruments “ *for the better continuance of peace;*” for he says no such thing, this being only a *disloyal* conceit of some modern judge, concerned in the argument of Calvin’s case: but to return to the words of the reporter.] “ *The peers and nobles of England disaffecting* THIS GOVERNMENT, BY ARMES AND ARMIES,\* (ODIMUS ACCIPTREM, QUIA SEMPER VIVIT IN ARMIS,) *wisely and politiquely persuaded the king, that they would provide for the safety of him and his people, and yet his armics, carrying with them many inconveniences, should be withdrawn,*” &c. (This would be a proper language and true

\* And every Englishman, that has not the same *dis-taste*, is surely *disaffected* to the true constitution and laws of his country, and may justly be charged with *disloyalty*; for none but *freemen* ought to be trusted with arms in a *free country*, and not men that are enslaved under martial law, in regular armies, to yield an implicit *active obedience* to the word of command, whatever it may be, without distinction of *good or evil!*

true policy for a free British parliament to adopt.) “ *Hereupon*” (says the reporter) “ *Canutus presently withdrew his armies,*” “ *and within a while after he lost his crown,*” &c.

Here again the judge, whoever he was that spoke, betrayed a most *disloyal* prejudice in favour of “ *a government by arms*” “ *and armies,*” which led him into a notorious falsehood ! for, though the former part of the sentence is true, that king Canute “ *withdrew his armies,*” yet the latter part, that, “ *within a while after,*” “ *he lost his crown,*” is totally *false* ; and the judge, by asserting that *groundless* circumstance seemed inclined to insinuate, that *the withdrawing the armies* occasioned the (supposed) *loss of the crown*, which was far from being the case. The great and noble Canute reaped the benefit of his prudent and generous conformity to the free constitution of this *limited monarchy* ; for he enjoyed a long and glorious reign, *after* he sent back his Danish soldiers ;

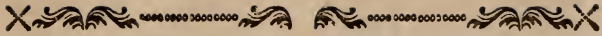


foldiers; which, according to Matthew of Westminster, (p. 403,) was in the year 1018; and he held the crown with dignity and glory to the end of his life, in the year 1035, when he was buried at Winchester with *royal pomp* (*regio more*, ib. p. 409): and his two sons also, who separately succeeded him, died likewise *kings of England*; for they lost not the kingdom but by natural deaths and the want of heirs.

Happy would it have been for England, had all succeeding kings been as wise and truly politic as the great Canute, who feared not to commit the care of his own person, and those of his foreign friends that attended him, to the *free laws and limited constitution of this kingdom!*

The old English maxim, however, against “*a government by arms and armies*,” ought never to be forgotten.—  
 “*Odimus accipitrem, quia semper vivit in armis.*”

(June, 1780.)



A  
GENERAL MILITIA,  
ACTING BY A  
WELL-REGULATED  
R O T A T I O N,  
IS THE ONLY SAFE MEANS OF  
Defending a free People.



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THE establishment of standing armies is, perhaps, the most dangerous of all political expedients, and has been fatal to the liberty of every nation upon earth that has adopted it; and, therefore, though the doctrine of *necessity* is generally pleaded to excuse the measure,

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sure, yet there seems rather a *necessity* of absolutely rejecting it; and of forming the national defence upon some other less dangerous plan.

The service of a *national militia* may be divided into equal proportions of attendance, *by rotation*, so as to inculcate and diffuse a sufficient knowledge of arms and military discipline throughout the whole body of a nation or people; and thereby supersede the baneful *necessity* of keeping *regular troops*, or *standing armies of mercenaries*.

Whenever the public safety demands the assembling and continuance of a large body of troops in actual service, to watch and resist the motions of any powerful invader, a regular military “*Roster of Service*,” from the *whole national militia*, is the safest and best means of forming and continuing such an army in the field; because it would be, not only, the least burthen some to individuals, but  
also

also less dangerous to the community at large; for, if the regularity of *rotation* were duly observed, no man would be so long detained from his ordinary calling and occupation as to lose his *civil capacity* and way of livelihood at home, nor be thereby unwarily drawn into a *separate interest* from his fellow-citizens; which was unhappily the case of the Parliament's army in 1647; for, after having bravely defended the *national liberty* for some years, this very army became the instrument of a most hateful *national bondage*, under a military tyrant!

The nature of a *Roster* is well described by General Bland, in his Treatise of military Discipline, from p. 287 to 312. When a great army is formed by several nations in alliance, which send into the field, each of them, a different number of battalions, a *Roster* is esteemed the best expedient for regulating and dividing the general service into due proportions amongst

mongst them all : and General Bland has given, in p. 290 of the above-mentioned Treatise, the form of such “ *a Roster general for the detaching of battalions, according to that in Flanders, in 1708.*” He has also given “ *Tables of Proportion for detaching private men,*” that is, for detaching them from the several battalions in the field, that the danger and fatigue of the service (especially at sieges) may be equally divided among them. And, nearly on the same plan, tables might be formed for detaching the *individuals of a national militia from the several parishes, or districts, to which they belong, in due proportion to the number of males enrolled in each of them* ; whereby the hardship and inconveniences of military duty for the common safety would be equally divided among the whole nation ; and, of course, the time of actual service would be most profitably diminished

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ed to each individual, whilst the knowledge of arms and discipline would be regularly *circulated* into all parts of the country; and with it also such a sensible perception, to each individual, of his fellowship, or incorporation, with the whole national community, as would plainly tend to prevent all partial and undue emulation of particular counties or districts against their neighbours: for, by such provincial jealousies, the ancient states of Greece were unhappily disunited, and their attention withdrawn from that true mutual interest and defence of each other, without which none of them could long subsist in freedom: whereas, if (on the contrary) they had been inured to the social duty of serving in one common army, drawn equally from each confederate state by a proper “*Table of Proportion,*” and duly changed by *rotation*, (to prevent them from becoming *mere soldiers,*) there would have been no just cause to  
be



be jealous of each other's power (as between the Athenians and Lacedæmonians, &c.) ; for all successes, as well as losses, would have been equally divided among them ; so that no particular state could have acquired, by victory, any enviable advantages, peculiar to itself, to incite the jealousy of the rest ; but every individual, in every part, would, by these means, have been led to consider himself not merely as a member of a single petty state or district, but (with a more enlarged idea of his own social character) as a member, rather, of the whole community of free citizens throughout all Greece : for the circulation\* of the

*Roster*

\* A *Rotation*, or general circulation of public duty, may be compared to those "*wheels within wheels,*" which give life, vigour, and activity, to a *whole community*, by enabling it (howsoever extensive and scattered, with respect to local *situation*) to move and exert itself as *one united living body*, actuated by *one spirit*, like as the hosts, or armies, of the commonwealth of Israel are typified by the Cherubim, or *four living creatures*, (as represented in the standards of the four  
principal



*Roster* would have been a most effectual bond of union to secure the connexion and communication of the most distant branches of the confederacy; and, by preserving the general body of the people in their *civil capacity* and *ordinary occupations*, it would also have rendered them less liable to be drawn from the common interest of the state at large, partially to favour the arbitrary designs of any usurping commander in chief or petty tyrant: for no general-officer (had such a confederacy of national union been

F duly

principal tribes,) united in *one animated* system of action, moving altogether with wheels (or rotations) and wings, *full of eyes* within and without.

For, in a state that is perfectly free, (and in such only,) the eyes of the several individuals of which it is composed are permitted to look forward, with effect, to the true interest of the community at large; and may well be considered as the eyes, figuratively represented in the whole body of the Cherubim, and in all their parts; (their backs, and their hands, and their wings, and the wheels full of eyes round about;) every eye in that great united figurative body of the Cherubim helping to *enlighten* the *intention*, and thereby influence the motion or government of the whole.

duly established) would have been able to assume more power and authority than what was fairly delegated by the majority of suffrages, in one *great united general council* of chosen citizens from every part.

The general body of individuals, in such a case, indeed, submit themselves to serve, by rotation, in the humble station of private soldiers; but the time of service being limited, and *equal* to all men in duration, it would be no great hardship, especially if each freeman that bears arms was allowed his *natural right* of suffrage in the state, his due share of legislative influence, to controul the commanders, and regulate the service.

In a nation consisting of six millions of souls, (which number England is commonly said to contain,) the number of males capable of bearing arms (and who, according to *natural right*, are justly entitled also to a share in the legislature)

would

would be estimated at a fourth part of that number, according to the most general mode of estimation, *viz.* 1,500,000 men; from which number a *Roster of actual service from home*, only for *one month* each man in the space of a whole year, would supply a constant army in the field of 125,000 men, if so many were necessary. A continual change *every month*, or every *fourteen days*, of half a battalion at a time out of each district, or still in smaller proportions, *viz.* a few companies at a time (or even by half-companies, from smaller divisions or parishes) would be most adviseable, that every part of the country might always retain nearly the proportion of eleven parts out of twelve of its own militia, as well for the purposes of guarding it, as to carry on the ordinary cultivation, and other necessary local occupations, without interruption. Persons above the common rank might serve in squadrons of horse, (if they preferred

that kind of service,) as *equites*, or *esquires*. Those men whose time of service approached, as being next upon the established *Roster*, should be more carefully exercised *at home*, *after the hours of labour*, for one month at least before their time of marching. By these means they would be prepared for the service; and the very march, if properly conducted, would add to their discipline. The certainty of returning, when relieved by companies of their neighbours, in so short a time as *one month*, (if they lived so long,) or two months, allowing for the march out and home, would much reduce the anxiety of parting from their families and friends.

It will probably be objected, that a national militia, which has been exercised only in small bodies, is incapable of effectual service against an enemy: but for this a remedy may be found. Let the army be first formed in a separate encampment,

campment, at such convenient distance from the enemy, that they may not be liable to an immediate attack.

A central situation must, of course, be chosen for this camp of discipline, where the several companies from the whole nation may be regimented under proper general-officers, and be daily exercised, in *large bodies*, for a whole month (or six weeks, if necessary) before they are brought to face the enemy. And, for this reason, it would be expedient to require from each individual (I mean *the first time* he is entered on the *Roster*) one month or six weeks attendance *more* than the generally established proportions of time on the *Roster*, (which would be only *once* in his whole life-time, and therefore no great hardship,) in order to be exercised with a large body of troops in some of the principal and most necessary movements and evolutions for the field; and, after the month or six weeks training in the camp of discipline,

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an army of 125,000 men might be marched to the camp or camps of actual service, to do duty for the time allotted to each upon the *Roster* against the common enemy; and the number might be continually kept up by monthly detachments of battalions from the first camp of discipline, in proportion as the time of service (allotted to each of the former companies upon the *Roster*) should expire. The country would also be guarded by the returning disciplined companies dispersed in every part; and the knowledge of arms and discipline, by the time a *single circulation* of the *Roster* was completed, (*viz.* in one year,) would be diffused throughout the *whole nation*; which would thereby be enabled afterwards to exert itself gloriously upon any sudden emergency; for it might afford to bear even the loss of six such capital armies of 125,000, *viz.* in all, 750,000, men, before it would be necessary to increase the time of service from one month



to two months actual service, for each disciplined man, in a whole year. With so small a portion of time employed in military service, every man might preserve his ordinary occupation, either in trade or husbandry, and maintain his rank and situation in life with his family, as a *free citizen, in his own district*, at all other times, when the *Roster* of public service did not demand his personal attendance from home. But when, by a contrary method, a national militia is so long continued in actual service, without *rotation*, as to inure the individuals to a neglect and disuse of their ordinary employments, in their respective counties and districts, they gradually lose their *civil capacity*, and, from *free citizens*, are apt to become *mere Soldiers*, dependent on their military *Sold*, or stipend, and the favour of superiors; whereby they acquire such a slavish submission to COMMAND, be it *just* or *unjust*, that they

they readily undertake to execute those very measures and designs, which they themselves, perhaps, have previously condemned; alleging, that “ *a soldier* “ *has no right to judge for himself,*” (thus indiscriminately applying, to the general propriety or impropriety of any military undertaking, a principle, which properly relates only to the necessary discipline and mode of conducting it in the field, after a man has absolutely consented and engaged to serve in it,) “ *and that a soldier must go*” (say they) “ *wherever* “ *he is ordered, without any demur about* “ *the propriety or injustice of the service.*” So that they establish not only a *passive*, but an *active*, obedience to the will of others, which makes the profession *dishonourable!*—*dishonourable*, I mean, in those who admit this doctrine of *unlimited obedience*, which is derogatory to their *natural dignity, as men*; for they give up an indispensable quality of *human nature*,

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the right of discerning between *good* and *evil*, (which is nothing less than *a desertion*, or apostatizing, from the duty which *every man* owes to God and his eternal laws!) and thereby render *themselves*, or (I would rather say) render their *profession*, the bane of every state where it is established, and a disgrace to *human nature*!







R E M A R K S

CONCERNING THE

Trained Bands

OF

L O N D O N.



G 2

THE UNIVERSITY OF CHICAGO

IN THE DEPARTMENT OF THE HISTORY OF ARTS

AND OF ARCHITECTURE

OF THE UNIVERSITY OF CHICAGO

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R E M A R K S

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**T**HE Militia, or Trained Bands, of London have never been known to misbehave in *actual service*, however despicable they may appear in their annual musters.

Citizens of London, from the most ancient times, were required to keep arms in their houses. The annual muster is rather a *muster of the arms* than of *the men*, who would probably go out to *actual*

*actual* service if there should be really occasion for them ; but even the meanest of *the men*, as they now are generally sent out, (being for the most part substitutes,) if they were *exercised for a few hours three times a week, only for one month*, and restrained from the use of strong liquors during the time of exercise, would be found more serviceable (if there was any real occasion of public defence) than is generally conceived.

Of this real facts afford the best proof: the irregularity of the Trained Bands and want of discipline were as conspicuous and notorious, it seems, in the year 1642 as at present: for then Capt. Skippon (afterwards Major-General) was directed by the parliament to attend them, as a guard, with two companies of the *Trained Bands* of London; and Lord Clarendon's account of that matter is expressed in the following contemptuous terms: “ *This* “ *man*” (says he, meaning Skippon)  
“ *marched*

“ *marched that day in the head of their*  
 “ TUMULTUARY ARMY *to the parlia-*  
 “ *ment-house.*”\* Yet Lord Clarendon himself makes ample reparation to the *Trained Bands* for this contempt, when he speaks of their *unexpected* behaviour at the battle of Newbery; for, though he allows their *inexperience both of danger and service*, he expressly attributes to the *steadiness* of the *Trained Bands* the preservation of the parliament’s army. No troops in the kingdom had, at that time, been able to withstand the spirited charges of Prince Rupert’s well-disciplined horse, till this *tumultuary army*, (which seems to be an exact description also of their *present* musters,) for the first time, compelled them to wheel about.

Rapin speaks of the brave defence of the *infantry* on that day in very high terms, but without mentioning what particular troops they were; so that no reader would suspect that he described the  
 actions

\* Bk iv. p. 380.

actions of the “*tumultuary army*” of the city.

“ After the Prince had routed *the cavalry* of the enemy,” (says Rapin, meaning the *parliament’s cavalry*,) “ he fell upon their *infantry*, which, though deprived of the help of the cavalry, received him with so much *intrepidity*, that he was *repulsed* several times, without being able ever to penetrate.”\* But Lord Clarendon candidly attributes the glory of the day to those whom he before despised as a *tumultuary army*.

“ *The London Trained Bands*” (says he) “ and auxiliary regiments (of whose IN- EXPERIENCE of DANGER, or ANY KIND OF SERVICE, beyond the easy practice of their postures in the Artillery-garden, men had till then TOO

“ CHEAP

\* “ Après avoir mis en déroute la Cavalerie des ennemis, il alla tomber sur leur Infanterie, qui, bien que dénuée du secours de la Cavalerie, le reçut avec tant d’intrépidité, qu’il fut repoussé plusieurs fois, sans qu’il pût jamais la percer.” Rapin, tom. viii. p. 426.

“ CHEAP AN ESTIMATION) *behaved*  
 “ *themselves to wonder; and were, in*  
 “ *truth, the preservation of that army that*  
 “ *day. For they stood as a BULWARK*  
 “ *AND RAMPIRE TO DEFEND THE*  
 “ *REST;*” (whereby he attributes to  
 them the chief resistance;) “ *and, when*  
 “ *their wings of horse were scattered and*  
 “ *dispersed, kept their ground so STEA-*  
 “ *DILY, that, though Prince Rupert him-*  
 “ *self led up THE CHOICE HORSE to charge*  
 “ *them, and endured their storm of small*  
 “ *shot, he could make no impression upon*  
 “ *their stand of pikes, BUT WAS FORCED*  
 “ *TO WHEEL ABOUT: of so sovereign be-*  
 “ *nefit and use is that readiness, order, and*  
 “ *dexterity, in the use of their arms, which*  
 “ *hath been so much neglected.”* Bk. VII.  
 P. 347.

Thus the *City Pike-men* are commend-  
 ed as a standard pattern of military disci-  
 pline, (viz. for their “ *readiness, order,*  
 “ *and dexterity, in the use of arms,*”) by



the very same historian who had entitled them *a tumultuary army* a very short time before this occasion which extorted his commendation. A moderate and sufficient discipline, for real service, is more easily and sooner acquired than people generally conceive; and nothing is wanting to the present establishment of City Trained Bands but more frequent musters, for about an hour or an hour and a half at a time, *after the hours of labour*: for, if they were allowed this advantage, they would be nearly upon the same footing as the Militia of New England, Connecticut, &c. which lately conquered the well-disciplined army of General Burgoyne: they would be nearly upon the *same footing*, I say, except in one point; which is, that the *New England Militia* have always maintained the ancient constitutional right of choosing their own officers in the public *Folk-motes*: which the learned Judge Atkins, by the best authorities,



rities, has proved to be the original constitution of our national Militia. Polit. Tracts, p. 254.

The present establishment of the *county regiments of Militia* favours too much of a *standing army*, both in *discipline*, and *the effect* of the service upon the *common men*; who, by being absent too long a time from their families and ordinary occupations, are apt to become *mere soldiers*, despising their former trades and employments, and consequently *ceasing to be citizens*.

Nothing, surely, can be more dangerous to a free state than such an *effect* as this; for the *professed soldier* generally gives up to superior COMMAND\* that in-

H 2                      dispensible

\* *Command* is properly *imperium*, the essence of *empire*; for, the title of *imperator* (or *emperor*) originally signified nothing more than *the commander in chief of the army*: and, though this power of *command* was generally delegated, at first, by the election and appointment of the people, or senate, and of course was esteemed subject to their controul, yet, by the usurpation of successful

dispensable human right of judging between *good* and *evil*, which alone constitutes

cessful military chiefs, (when the forces under their command have been detained so long in actual service as to lose their *civil capacity* and become a *standing army* of mere *soldiers* dependent on their *sold*, or military pay, instead of their former *civil* connections and useful occupations,) it has always been liable to be changed from a *limited command* to "*merum imperium*," or *absolute dominion*, which Leopold Metastafius, a learned Roman Advocate, very properly styles "*belluina potestas*," a *beastly power*; a term which most aptly characterizes the *enormity*, and consequent *illegality*, of *unlimited monarchy*! And this use of the term, *belluina potestas*, is strictly *legal* and justifiable; because it is the *very mark* by which the prophets of God have branded all the arbitrary dominations of mankind, from the Babylonian head of the great and terrible image of Tyranny down to *its very toes*, the present divided kingdoms of the earth, which still exist in power, (and must so continue for some little time longer,) for the punishment and destruction of depraved man, until it shall please God, in his mercy, to break them in peices by *his eternal kingdom*, which will then *become a mountain*, (or earthly establishment of government,) *and fill the whole earth*, (Dan. ii. 35. 44) For all the said temporal empires and kingdoms are included in the prophetic representation of *four great and terrible beasts*; (see Dan. vii.) so that the *belluina potestas* is undeniably attributed to *all of them*; and, that we may more clearly demonstrate that the term denotes a power, unlimited by law and due popular controul, it is necessary to remark, that

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tutes the distinction between *men* and *brutes*; and through a false notion of military

the characteristical property of each of these *beastly* empires is, “*to do according to his WILL* ;” that is, without limitation of *law*, *right*, or other *just controul* in favour of the people: such *unlimited WILL* is called “*absolute* ;” i. e. “*loosed from*” all due restraint of the people, or other *obligation* whatsoever. This *bestial* mark of *absolute will* was the characteristical property of the *first beast*, the Babylonian head or *winged lion* of the Chaldees ; “*whom he would*” (צבא, the proper Chaldee word for *WILL*, both verb and noun) “*he slew*, “*and whom he would*” (צבא) “*he kept alive*, and “*whom he would*” (צבא again) “*he set up*, and *whom he would*” (צבא once more) “*he put down* ;” (Dan. v. 19.) So that the *will* of the monarch was manifestly the *only law* of that empire ; and the unhappy effects of such *unlimited power*, even to the *monarch himself*, is strongly marked in the very next verse : “*But, when his heart was lifted up*,” (the natural consequence of such undue exaltation,\*) “*and his mind*  
“*hardened*

\* An excellent antidote against the evil of *royal will*, or “*undue exaltation*,” is prescribed in Deut. xvii. 18-20. viz. That the king shall “*write out for himself a copy*” (or rather a *duplicate*, כְּתִיבָה) “*of this law*” [i. e. those written laws of God which had *twice* been solemnly *read*, not only in the presence, but “*in the ears* (or hearing) “*of ALL the people* ;” and had as often been solemnly confirmed, at each *public reading*, by the voluntary assent of *all the people*, saying, — “*all that the Lord hath said will we do*.” Exodus xxiv. 3. 7. Thus the divine laws became the regular *statutes* of that nation] : “*And it*” (viz. the king’s own written duplicate of the law) “*shall*  
“*be*

litary honour, the soldier is apt to think that his duty requires an *implicit active obedience*

“ *hardened in PRIDE, he was deposed from his kingly throne, and they took his glory from him: and he was driven*

“ *be with him, and he shall read therein, all the days of his life: that he may learn to fear the Lord his God, TO KEEP ALL THE WORDS OF THIS LAW, AND THESE STATUTES, TO DO THEM*” (and the reason of thus limiting the ROYAL WILL, by laws and statutes, is assigned in the very next sentence); “ *that HIS HEART BE NOT LIFTED UP ABOVE HIS BRETHREN, and that he turn not aside from the commandment (to) the right hand or (to) the left:*” (which is surely a strict limitation of the regal power; a measure highly important to the true interest even of the monarch himself: viz.) “ *to the end that he may prolong (his) days in his kingdom, he and his children, in the midst of Israel.*” And in like manner the kings of all Christian nations should be limited by the same statutes, excepting only those statutes which were merely ceremonial or temporary. And they should be still farther limited by the more perfect statutes of the Christian revelation, without being allowed the least power of WILL, or prerogative, to “ *turn aside from the commandment to the right hand or to the left;*” that the declared purposes of the Gospel in behalf of man (viz. “ *on earth PEACE good will towards men*”) may be *effectually established*; and that the WILL of our heavenly Father (which is always *righteousness* and peace) may “ *be done on earth as it is in heaven;*” for that is the true effect of the approaching kingdom of God on earth, which all Christians are taught to promote by their daily prayers. But the princes of the world (under the influence of our spiritual enemy, the dragon, which hath given power to *the beast*;) do openly oppose the *effectual* establishment of God’s kingdom on earth, by impiously claiming to themselves a royal prerogative to make WAR or peace without the advice and assent of the people, or congregation; which is manifestly to “ *LIFT UP THEIR HEARTS ABOVE THEIR BRETHREN,*” and of course “ *the earth is*” (once more) “ *filled with violence,*” (see p. 7.) whereby the royal promoters of it are rendered dreadfully obnoxious to the vengeance

*obedience* on all occasions; whereby *the standing armies* of all nations are constantly

“ *ven from the sons of men, and his heart was made like the BEASTS,*” (a notable instance of God’s vengeance against the *belluina potestas* of royal will and pleasure,) “ *and his dwelling was with the WILD ASSES,*” &c. (Dan. v. 19, 20, &c.) By this very example did the holy prophet reprove a wicked and *unbridled* descendant of the same monarch, just before the total dissolution of his empire, as he had also previously warned the royal ancestor himself, to “ *break off his sins by RIGHTEOUSNESS,*” &c. which would have effectually restored *due limitations* to his government, and destroyed the baneful “ *belluina potestas*” which occasioned the warning;

geance and retribution of the Almighty, when his approaching kingdom shall come “ *to destroy the destroyers of the earth:*” — διαφθερεται τας διαφθεγοντας την γην. Rev. xi. 18. — But, if kings would be contented to govern with *legal authority*, (i. e. authority *duly limited* by the *uninfluenced* representation of each nation, or people, *freely and equally* elected for *every session* of each national council,) and would, after the example of king Canute, magnanimously rely (under God) on their national hosts of free armed citizens, (instead of *standing armies*,) for the security of their crowns, they would stand clear of the heavy judgements denounced against *the body of the beast*, and would have no cause to fear the approaching kingdom of God, nor the irresistible stroke by which it will break in pieces the whole image of tyranny, and “ *cut off all the horns*” (or crowns) “ *of the wicked*” (Psa. lxxv. 6, and lxxvi. 12): for *legal* kings are effectually secured by the scripture promises in favour of *RIGHTEOUSNESS*,—viz. that “ *the horns*” (or rather *crowns*) “ *of THE RIGHTEOUS shall be exalted*” (Psa. lxxv. 6): so that they may truly hope to reign with the just, when “ *the kingdom and dominion, and the greatness of the kingdom UNDER THE WHOLE HEAVEN, shall be given to the people of the saints of the Most High,*” &c. Dan. vii. 27.



stantly and regularly the tools of despotism, and the bane of all good and limited government.

## A

warning ; but the counsel was neglected, and, of course, the monarch was humbled, and his empire ruined ! for then were the *wings of the BEAST* of Babylon plucked, and his dominion taken away. (Dan. vii. 4.)

*Absolute will* was also the essential property of the succeeding empire, or the *second beast* ; viz. the Medo-Persian monarchy, described elsewhere under the figure of an impetuous *ram*, which pushed westward, and northward, and southward, “ *so that no BEASTS might stand before him, neither (was there any) that could deliver out of his hand, but*” (the prophet now adds the principal *bestial*, or *brutal*, mark) “ *HE DID ACCORDING TO HIS WILL, and became great.*” (Dan. viii. 4.) For, after the Persian monarchs had once acquired the baneful “ *belluina potestas*,” by the establishment of *standing armies* in every province, even the once-boasted *laws of the Medes and Persians* became as vague and uncertain as the *royal will and pleasure* to which they were, of course, subjected, howsoever *unchangeable* they might have been reputed in the commencement of that empire.

Neither was the *third beast* (the cruel *four-headed flying leopard* of the Grecian empire) without the same characteristical mark of *absolute will*, though it is not expressly annexed to Daniel’s description of that compound of Tyranny in his seventh chapter ; but, in the farther description of the Grecian empire, (chap. xi. §. 3.) the same *wilful* or *unlimited* dominion is clearly foretold ;



A *national militia*, therefore, ought to be constituted upon principles as op-

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posite

foretold; “ *A mighty king shall stand up, that shall rule with great dominion,*” (and then follows the mark of the beast,) “ *and shall do according to his WILL.*”

The king, mentioned in the 36th verse, that “ *shall do according to his WILL, and exalt himself, and magnify himself above every God,*” is generally understood to denote the *fourth and last beast*, or *empire*, which *still exists*; being that most noxious and tremendous beast with *iron teeth*, (described in Dan. vii. 21.) “ *which devoured, brake in pieces, and stamped the residue under his feet;*” i. e. in the most violent and *beastlike* manner, which is plainly to “ *do according to his WILL!*” We see then how aptly *unlimited command*, or *merum imperium*, is expressed by the term, “ *belluina potestas.*”

The *unlimited will* of a king is so great an abomination in the eye of the *English Common-law*, that the exercise of it in this country is declared to be an effectual disqualification or abasement from the *regal dignity*, “ *for there is NO KING, where WILL governs, and not law.*”—“ *Non enim est rex, ubi dominatur VOLUNTAS, et non lex.*” (Braet. lib. i. c. 8.)

A king of England *ceases to be king*, when he *ceases to be limited by the LAW*; for it is a rule of the *common-law*, that “ *a king can do nothing*” (i. e. by virtue of his office) “ *on earth, while he is the minister and vicar of God, except that alone which BY LAW he may.*”—“ *Nihil enim potest rex in terris,*” &c. “ *nisi id solum quod de JURE potest,*” &c. (See the note in pages 21 and 22.) And, therefore, when the law is *suspended*,  
ed,

posite to those of *standing armies* as possible; and no rules or arrangements  
whatever,

*ed*, or set aside, (which is the highest and most baneful *injustice*,) the king's power ceases to be "*de jure*," for, in the eye of the law, he is esteemed "*Minister dei*" "*aboli, dum declinet ad injuriam*;" so that he and his ministers reduce themselves thereby to the common level of all other bad men; and whatsoever *power*, or *force*, in that case, they may be able to exert, has no better foundation than the temporary power of banditti, which may be lawfully and conscientiously resisted by all men.

A king of England, therefore, though he is *supreme* (or *sovereign*) in personal dignity and rank, yet he is *not so* in will and power; because, in these, the law (to avoid the *belluina potestas* of *absolute monarchy*) requires that he should be duly *limited* by the people: a necessary distinction this, respecting *supremacy*, of which the unfortunate K. Cha. I. seems not to have been aware, or he would not, with his dying breath, have denied the people's right to a *share in the government*; saying,—"*It is not for having share in government, sir; that is nothing pertaining to them; a subject and a SOVEREIGN are clear different things*," &c. — and so they certainly are, with respect to *personal dignity*, or *rank*, when compared *as individuals*; and yet the *sovereignty*, or *supreme power*, belongs of right to the people, i. e. to the majority of them, or to the majority of their duly-elected representatives. "*And therefore*" (we may say with that learned casuist, Bp Taylor, in his *Ductor Dubitantium*, lib. iii. c. iii. rule 1, p. 522.) "*it is but a*  
"*weak*

whatever, that may tend to detach men from their ordinary callings and employ-

I 2

ments,

“ *weak and useless distinction, when we speak of kings and*  
 “ *princes, (by them meaning the SUPREME POWER,) to*  
 “ *say that some are ABSOLUTE, some are LIMITED in their*  
 “ *power.*” — That is, the distinction is weak and useless only when we mean to speak of the *supreme power*: this is clearly the bishop’s meaning, as the following context will shew; for otherwise the distinction to be made between *absolute* and *limited* “ *kings and princes*” is so far from being *weak and useless*, that it is the necessary and proper criterion between the *illegal* and *legal* dominion of kings; the *limited* alone being *legal* in this kingdom. “ *For*  
 “ *(the bishop adds) it is true that some princes are so*” (i. e. *are LIMITED in their power*); “ *but then (says he) they*  
 “ *are NOT the SUPREME power.*” (This is directly to the point in question; and he adds a farther illustration of it:) “ *It is a contradiction (says he) to say that the SUPREME*  
 “ *POWER is limited or restrained; for that which RE-*  
 “ *STRAINS it is SUPERIOR to it, and therefore the other*  
 “ *is NOT SUPREME.*” That a king ought not to have the *supreme power* is clearly laid down by the best writers on the *English Common Law*; and particularly by Judge Bracton, one of the most ancient as well as the most respectable authorities. “ *Rex sub Deo et Lege.*  
 “ *Rex habet SUPERIOREM, Deum, (scilicet,) item LE-*  
 “ *GEM, per quam factus est rex; item CURIAM SUAM,*  
 “ *viz. comites, barones,*” &c. Bract. lib. 2. c. xvi. p. 34.  
 “ *Lex frænum est potentiae,*” &c.

That such a power of RESTRAINT is vested in the LAW, as well as in the LEGISLATORS of this *limited* monarchy,

ments, as *free citizens*, ought, on any account, to be admitted.

## The

monarchy, is clearly proved by Mr. Acherley, in his book on free parliaments. He argues from the words of the *original writs of summons to parliament*, — that the *determining or decisive power*, demanded by the said writs, (*ad faciendum ea*, i. e. the insuperable and urgent businesses for which the parliament is called,) is *derived from the people*, and is *independent*; and his inference is good; and he gives a remarkable instance of this *independent power of the people*, which is their answer to the pope respecting the banishment of Adomar, Bp of Winchester, in 1258. Ann. 43. Hen. 3. Viz. “ Si dominus  
“ rex et regni majores hoc vellent, COMMUNITAS tamen  
“ ipsius (Adomar) ingressum in Angliam jam nullatenus  
“ sustineret.” “ That, if the king and lords would do  
“ this thing, (meaning, if they would revoke the banish-  
“ ment,) yet the commons WOULD NOT SUFFER or bear  
“ Adomar’s residence in England.” “ And the commons  
“ caused their speaker, Petrus de Montford, ‘ vice totius  
“ communitatis,’ to sign, and he did sign, this answer.”  
P. 9.

From this example, therefore, as well as from a great multitude of other instances of the power of the *English commons*, it is manifest that there is no *supreme power* in England without the concurrence and assent of *the people*: not a *general assent*, once for all, to throw the *supremacy* into other hands, but an *especial assent* for every new circumstance that may be liable to affect their interest. For which cause, also, parliaments ought (indispensably) to be newly elected *every session*, according to  
ancient



The City-Militia, even upon its present establishment, was always respectable, when *real service* was wanted.

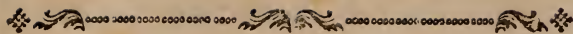
ancient usage, i. e. “every year once, and more often if need be”; and that in as *equal* a proportion of *representation* as possible; because, the more *equitable* in this point it is made, the more conducive it will surely be to the happiness and true permanent interest both of king and people.

But if, on the contrary, by the modern *innovations* of *triennial* and *septennial* elections, reduction of the right of voting, venality of almost depopulated boroughs &c. the *supreme power* should be gradually corrupted it must become a *supreme* evil to the destruction of *good government* and *peace*! for, in such a corrupted state, nothing can thrive under it but *standing armies*, and that which always regularly attends their establishment throughout all the branches of the fourth, or Roman, tyranny, I mean the *belluina potestas* of imperial *will* and *command*, against which the vengeance of the Almighty is clearly denounced; so that those persons, who yield themselves instruments to promote either the one or the other, are guilty of the grossest impiety! A free militia, therefore, is the only just and legal means of internal national defence.









R E M A R K S

ON THE

MILITIA LAWS

FOR

L O N D O N.





R E M A R K S

CONCERNING THE

MILITIA LAWS

FOR THE

CITY of LONDON.

(Written in June, 1780.)

**B**Y the present commission of lieutenancy for the city of London, it seems to be understood, that the lieutenants are impowered to act by virtue of two statutes, wherein the city-rights are expressly reserved, though, with respect *to the rest of the kingdom*, these acts have been long since superseded by other militia laws, which extend not to the city of London. The two statutes cited in the commission are, 1st, the 13th and 14th

Cha. II. and 2dly, the 1st Geo. I. c. 14. If these acts are carefully examined, it will appear that the citizens have been happily secured in their *antient common law right* of ARRAYING and MUSTERING for the defence of the city and the preservation of the king's peace: so that, in this, as well as in their reserved rights of choosing their own *justices*, or conservators of the peace; (*viz.* the *aldermen*;) their own *sheriffs*; and all other public officers; the *annual election* of their representatives in the *common-council* (the "*commune concilium*", or *parliament*) of their city, with the right of convening the same, as well as their great *general councils*, or county courts, (called in London *common halls*,) whenever they think proper, &c. &c. In these reserved rights, I say, of the citizens of London, we have unquestionable evidence of the *antient English constitution*; the constitution of this city being (with very few exceptions) an epitome or model of the

the antient political rights of the whole kingdom; so that the whole kingdom are really interested in preserving to the citizens of London these *last remains* of old English privileges, as authentic documents of their ancestors rights and of their own just claims, whenever they shall have virtue enough to demand a new election of their representatives “*every* “*year once*” at least, and “*more of-* “*ten if need be,*” according to ancient usage confirmed by statutes.

The times of muster and exercise (as limited by the act of 13th and 14th of Cha. II. c. 3.) are too few to produce a *sufficient discipline*; viz. “*The general* “*muster and exercise of regiments*” (to be) “*not above ONCE a year;*” and “*the* “*training and exercising of single compa-* “*nies, not above FOUR TIMES a year,* “*unless special directions be given by his* “*majesty, or his privy council;*” and “*that such single companies and troops shall*

“ *not at any one time be continued in exer-*  
 “ *cise above the space of two days,*” (sect.  
 21.) and “ *that at a general muster and*  
 “ *exercise of regiments, no officer or sol-*  
 “ *dier shall be CONSTRAINED to stay above*  
 “ *FOUR DAYS together from their respec-*  
 “ *tive habitations.*” (§. 21.) But though  
 the city militia, by exercising *four times in*  
*a year*, could not acquire a sufficient disci-  
 pline to justify their title of *trained bands*,  
 yet even this limited *training* would have  
 rendered their annual musters less con-  
 temptible and ludicrous; for they never  
 ought to be drawn out in a general muster  
 without some previous *training*\* in compa-  
 nies.

\* To the improvident omission of this *previous train-*  
*ing*, together with the impolitic *demolition of the*  
*city gates and walls*, may be attributed the fatal effects  
 of the late tumults; for the progress of the rioters  
 might otherwise, certainly, have been excluded from  
 the city; as the armed citizens upon the gates and at  
 the posterns, even with *only four times training*, would  
 have been enabled to fire with effect on all persons that  
 should attempt to force or break the gates: and such  
 an



nies. But this limitation of *musters* and *times of training* is to be considered only as a bar to *involuntary musters*; lest (formerly the kingdom, but at present only) the citizens of London, over whom the act is supposed to be still in force, should be too much burdened by *militia musters*, so that citizens may certainly claim *the limitation*, to prevent abuses, whenever they have any just cause of complaint; as *all laws* are to be construed in *favour of liberty*, “*Angliæ jura, in omni casu, LIBERTATI dant favorem.*” (Fortescue de laudibus leg. Ang. c. 41.) But if citizens are *willing* to be well disciplined, and shall *agree* with the king’s lieutenants to hold *more frequent musters*, and to appoint *weekly times of training*, or more often,

an attempt to break a city gate or barrier, howsoever slight, immediately justifies a discharge of musquetry and the use of the bayonet, even *by private citizens*, without waiting for the command of the *civil magistrate*, in the same manner as every man may defend his own house.

often, this act does not seem intended to prevent it; for it ordains no penalties for *more frequent training*; and it contains an express clause for the militia of the city of London, which affords ample authority for a *complete training of the city militia*, as well as of all *military associations* of citizens under the title of VOLUNTEERS and AUXILIARIES.

The authority, I speak of, is contained in the 27th section, and in a commission of king Charles the 2d, to which that section expressly refers, viz. “ *Provided always, and be it enacted, by the authority*  
 “ *aforesaid, that his majesty’s lieutenants,*  
 “ *that are or shall be commissioned for the*  
 “ *militia of the CITY of LONDON, may*  
 “ *and shall CONTINUE to list and levy the*  
 “ *trained bands and auxiliaries of the said*  
 “ *city, as to number and quality of the per-*  
 “ *sons, in SUCH MANNER as was used in*  
 “ *forming the present forces now raised by*  
 “ *his majesty’s commission, &c.*”

See

See a copy of the commission in p. 46. of “ *An enquiry into the state of the militia.*” Printed in 1779.

This ACT of 13 and 14 Charles II. was made in May, 1661; and *the* KING’S COMMISSION, thereby authenticated, was dated the 3d Oct. in the preceding year.

The *manner of listing, levying, &c.* here referred to, was most probably the old customary mode of *raising and training the city militia*, because the words, “ *shall* “ CONTINUE *to list and levy,*” do establish the *ordinary usage*, whatever it was, when the train-bands were *then last raised* by the king’s commission; and there is nothing in the latter which denotes any difference in the manner of *listing, levying, &c.* from what was customary in preceding times, except the circumstance of being “ *by his majesty’s commission:*” and the commission itself, being recognized by the act, and thereby confirmed to the

CITY OF LONDON, may now be considered as an established record of *the military powers* with which the citizens are actually invested; especially as the act, which refers to it, is cited in the very last commission granted by his present majesty to the lieutenancy of London.

By this *authenticated instrument*, the city lieutenants have power, "*from time to time, to levy and call together, receive and entertain, all and singular our subjects, both VOLUNTEERS and OTHERS,*" (which may include and give authority to all *ward associations* and other voluntary associations of citizens for common defence,) "*of what estate, degree, or dignity, they, or any of them, be, dwelling or inhabiting within our said city and the suburbs and liberties thereof,*" &c. "*and them to TRY, ARRAY, and PUT IN READINESS,*" (which necessarily includes TRAINING, without any limitation of *the times* of meeting for  
that

that purpose;) “ *and them also, and every*  
 “ *of them, after their abilities, degrees, and*  
 “ *faculties, well and sufficiently to cause to*  
 “ *be armed and weaponed, and to take the*  
 “ *muster of them* FROM TIME TO TIME,”  
 (here again is no limitation of the *time*  
 or *times of muster* nor of place,) “ *in*  
 “ PLACES *most meet for that purpose, after*  
 “ *your good discretion, &c.*”

Thus, if it be admitted that the 27th section of the act of 13 and 14 Cha. II. c. 3. refers to the ancient mode of arraying the city militia according to the usage of *that* time, as performed under the king's commission, (which I think cannot be denied,) the said commission (as far as it will bear a *legal* construction\*) is certainly *authenticated* by this act; and the powers therein stated, of “ *arraying*

L

“ *and*

\* Some expressions in the commission require a more *limited construction*: I speak only of what is therein mentioned of *martial law*; but, in every other point, the terms seem to be just, unexceptionable, and free from difficulty.



“ *and putting in readiness*” (or training)  
 “ *both horses and foot, without limitation of*  
 “ *times or places,*” are reserved to the city  
 lieutenancy in such unambiguous terms,  
 that there can be *no need of any new statute*  
*for disciplining citizens of London*; the  
 present reserved powers being amply suf-  
 ficient for that purpose; provided that  
 the inhabitants themselves are *willing to*  
*associate either as “volunteers and auxilia-*  
*ries,”* or to give up a sufficient portion  
 of their time for *training* under the esta-  
 blished militia officers, as the proper  
*trained bands of this city*. And, with re-  
 spect to both these circumstances, it ap-  
 pears that the citizens of London, in ge-  
 neral, are very well inclined (as they *ever*  
*were*) to yield their best services for the  
 public safety.

ALL THE CITY ASSOCIATIONS, there-  
 fore, while they act under the controul  
 of the *Lord mayor, the sheriffs, and other*  
*civil magistrates* of the city, and the rest  
 of



of *the court of lieutenancy*, are certainly  
 “ VOLUNTEERS OR AUXILIARIES,” le-  
 gally authorized by that authenticated  
 commission and the ancient rights and  
 customs of the citizens of London.

By the general militia act of 1 Geo. I.  
 c. 14. cited in the present commission of  
 lieutenancy, the ancient rights of the  
 LONDON MILITIA are expressly reserved,  
 (see the 8th section,) “ *provided, neverthe-*  
 “ *less, that nothing, in this act contained,*  
 “ *shall extend to take away any right of*  
 “ *the lieutenants of the city of LONDON,*  
 “ *of assessing, levying, and collecting, of all*  
 “ *rates and assessments upon the inhabitants*  
 “ *of the said city and the liberties thereof,*  
 “ *or ANY OTHER RIGHT OR*  
 “ *POWER, which is now vested in the*  
 “ *lieutenants of the said city by any former*  
 “ *act or acts of parliament.*”

This undoubtedly confirms the former  
 act, and the king's commission to which

it refers, as far as the *rights* and *powers* of the CITY MILITIA are concerned.

Also by an act of 30 Geo. II. the lieutenants "*for the militia of London may and shall CONTINUE to list and levy the TRAINED BANDS and AUXILIARIES of the said city in manner as heretofore;*" manifestly referring to their ancient rights and customs. The same clause was inserted also in the militia act of 2 Geo. 3. c. 20\*.

Thus

\* This act, of the 2d Geo. III. consists of *one hundred and forty-eight clauses*, which might seem to be sufficiently voluminous and complicated, without farther enlargement; yet, so great has been the rage of act-making upon this subject, that the militia-laws have since had additions or alterations in no less than *sixteen other acts of parliament*; and the number of acts, respecting the militia, that have passed since the 2d Geo. III. amounts in all to *twenty one*.

The effect of this complicated mass of law, (if law it may be called,) on the people's rights and welfare, is so ably set forth by Mr. Pennant, in his "*Free Thoughts on Militia-Laws,*" and by the very ingenious author of "*An Essay on defensive War and constitutional Militia,*" that

Thus the present powers of the city lieutenancy seem amply sufficient to authorize, not only *the training* of the city militia, but likewise the adopting and including all THE ASSOCIATIONS OF CITIZENS in the *legal army* or HOSTS of this great city, as “VOLUNTEERS OR “AUXILIARIES,” agreeable to the statutes and king’s commission, while they act under the controul of the city magistrates to preserve the peace of the city.

But

that it needs no farther explication. I may add, however, that the fatal encroachments, and changes for the worse, that have been made on the national militia, very clearly demonstrate the extreme danger of departing from ancient constitutional usages.

Nothing could be more plain and easy than the ancient mode of *associating* the people by *decenaries*, under *freely-elected decurions*, or *tithing-men*, in their respective *hundreds*; which was amply competent to all the necessary purposes of mutual defence, for the due execution of all *just and equal* laws, and for the sure maintenance of the public peace: a brief account of which I propose to extract from the ancient laws, and annex it as an Appendix to this book.

But care should be taken that such *proper times of training* be appointed for the lower classes of people, *after the usual hours of labour*, and with such limitation as may render *the training* neither irksome nor expensive: and also that the attendance on actual service of *watch and ward* may be so equally divided among *the inhabitants in general*, by the regular *rotations* of a well-proportioned *roster* in each ward, that no individual may be detained so long *in military duty* as to be injured in his *civil capacity*, by a neglect of his ordinary occupation; lest, from an *armed citizen*, he should be unwarily reduced to a *mere mercenary soldier*; which must necessarily be the case, whenever the lower ranks of people, who depend on their own industry and labour, are withdrawn (as in the present establishment of *militia* for the counties) from their usual employments, connections, and families, even *for 3 years together!*

Such

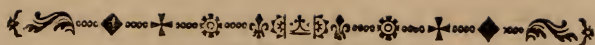
Such a plan is evidently destructive to the poor men: for the very utmost extent of absence, that a tradesman, artificer, or labourer, can be supposed to spare from his local situation of employment, without manifest inconvenience to himself, injury to his calling and connections, and consequent danger to the public, is the period of a “*single month in actual service by rotation:*” and so much, I really believe, the citizens of London would most willingly give up to the public service, in case their assistance should become necessary in any of the camps, provided they were sure of being *relieved, by the rotation of their fellow-citizens*, at certain stated periods, within *one month* from the commencement of service by each individual.

GRANVILLE SHARP.

Old Jewry,  
June 9, 1780.







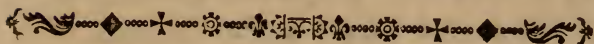
H I N T S

O F S O M E

GENERAL PRINCIPLES,

WHICH MAY BE USEFUL TO

Military Associations.



M



## H I N T S

OF SOME

GENERAL PRINCIPLES,

WHICH MAY BE USEFUL TO

## Military Associations.

AS the sole purpose of *Military Associations* is to support the *Civil Magistrate*, and to join “*the power of the countie,*” when legally summoned by sheriffs, &c. *for common defence*, it is necessary that each associated company be formed upon principles as opposite to those of *standing armies* (valour and good discipline excepted) as can possibly be devised.

The *freedom* and *equal* natural rights of individuals, and the preservation of their *civil capacity*, must therefore be considered as objects of the utmost importance and consideration; in order to which *the freedom of election* in the appointment of *officers*, and a *frequent renewal of choice* therein, are absolutely necessary to be maintained.

Let the whole corps of Associators in every neighbourhood, or *vicinage*, divide themselves into small bodies, of ten persons each, in their respective districts; and let each ten, or decennary, choose from among themselves a *titbing-man*, or serjeant, to superintend the discipline of the ten, and to receive and communicate to them all summonses from the Civil Magistrate, or orders from the *Committee of Association*, and to transact such other business as the nature of the *Association* may require: the power of the serjeants, nevertheless, to be subject to the controul

controul of a majority of the ten, who choose them respectively; and no other *military* officers should be appointed, except officers of *Platoons* for a single day; viz. when the corps is divided into Platoons for exercise (agreeable to the mode recommended by General Bland, p. 66): at which time each platoon ought to choose its own leader, whose power should cease with that day's exercise. An experienced person must, however, be chosen at a previous general meeting, to instruct and direct the corps in the general manœuvres and evolutions of the field, who should, from time to time, be appointed *Commanding-officer of the day*. In times of actual service, the Lord-Mayor, or either of the sheriffs that are present, must be considered as the legal commander of the association.

As three decennaries, or serjeants guards, will be the proper complement for a *platoon*, so two platoons, or six decennaries,

(being

(being sixty men,) will be a convenient number for a *company*, and ten such companies a sufficient number for a *battalion*, or ward division; as it will be equal to two townships or two county hundreds.

There should be, *within* each ward, several places appointed for drilling, or teaching *the common exercise* to *small parties*; and also one place, more spacious, for those that are become expert in handling their arms, to be taught *the platoon exercise*, to form themselves into companies, to march, wheel, &c. But, if a place cannot be found *within the ward*, sufficiently spacious for such a *general exercise* of the whole body, it is probable that two or three places may be found therein sufficient for the exercise of *single companies*, or at least of *single platoons*, which should be appropriated accordingly; and none of these places of exercise should be open to the inspection of strangers, as it must be irksome to gentlemen to be overlooked,



looked, before they have acquired some tolerable knowledge of the military discipline. One place of *general rendezvous* should likewise be appointed *within each ward*, for the neighbours to assemble in case of any sudden alarm.

To prevent the individuals of the Association from being injured in their *civil capacity*, care must be taken, that the times of *drilling and private exercise* be appointed both before and after the usual hours of labour; and that an option be given to the learners of attending either at the *morning* or *evening exercise*, as shall be most convenient to themselves, that no man may be induced to neglect or injure his ordinary calling or *occupation*, by which his *civil capacity* is maintained: and, for the same reason, the times of *public exercise in larger bodies* should not be more frequent than is absolutely necessary for acquiring a moderate and useful discipline, rather than a critical nicety in the military manœuvres;

manœuvres; which latter would take up more time than *men of business* can usually spare; and which must finally have the bad effect of tiring out many of the most useful members of society: and, therefore, it is not only necessary to restrain the *too great frequency* of such meetings, but also the *duration* of each meeting, that as little time may be lost to the individuals as possible; and that those who attend may not incur the necessity of *taking any refreshment whatsoever* while they are out *on exercise*, or in going or returning, which would otherwise occasion many inconveniences too obvious to be mentioned, besides an *unnecessary expence* to individuals, which ought certainly to be avoided in large *promiscuous* societies, because *all* cannot *equally* afford it. But, if any man has acquired so depraved an appetite, that he cannot endure four or six hours exercise (and a general review, if properly conducted, will not require

require more time) *without taking food or liquor*, he ought to be esteemed totally unqualified for the Association, till he can cure himself of such an *unmanly* and disgraceful habit, which is entirely inconsistent with the *military duty* even of a citizen.

Single decennaries, single platoons, or even single companies, should not be permitted to march into the country, *with their arms and uniforms*, by way of exercise or *amusement to themselves*, without an express leave, given by a general meeting of the associators, nor without due caution to be taken for preserving good order, by the attendance of a sufficient number of peace-officers, to prevent any disputes or affrays with strangers, lest the indiscretion of a few individuals of the corps, on such an excursion, should injure the reputation of the whole body of associators. And the third rule, given by a very ingenious and learned

writer, in a tract, entitled "*An Inquiry*  
 "*into the legal Mode of suppressing Riots,*"  
 should be strictly observed; that the As-  
 sociation should "*not, UNNECESSARILY,*  
 "*march through streets or highroads nor*  
 "*make any the least MILITARY PARADE,*  
 "*but consider themselves entirely as a part*  
 "*of the CIVIL STATE."* And they  
 ought also carefully to observe the caution  
 referred to by his fifth rule, respecting  
 the use of *arms in suppressing RIOTS, viz.*  
 "*that it is extremely hazardous for pri-*  
 "*vate persons to proceed to those extremi-*  
 "*ties in common cases;*" and that they  
 should not attend to any *private* person  
 that shall "*PRESUME to raise the power*  
 "*of the county, which is the province of*  
 "*the sheriff, under-sheriff, or magistrate,*"  
 but let them wait for a *legal* summons  
 from those that have the proper authority,  
 before they *take their arms* to assist in  
 keeping the peace; though they have  
 certainly

certainly a right to assemble as *neighbours*, *without their arms*, to consult, and use all peaceable endeavours to allay or prevent the ill consequences of any sudden commotion that has occasioned an alarm.

By the constitution of this kingdom, as well as by many express laws still in force, *apprentices, wards, and indeed laymen, of all ranks and conditions, from fifteen to sixty years of age*, are required to have arms, and be duly exercised in the use of them, for the national defence. (See p. 9-24.) It would therefore well become the housekeepers of every ward, and particularly those who are members of any ward-association, to encourage their *apprentices, servants, and dependents*, to learn their *military exercise*, (with the common *militia-arms* belonging to each house,) at such places in the ward as may be appointed for that purpose; the expence of which should first be defrayed



by the respective *ward-associations*, until the utility of the measure is rendered obvious to the wards at large, that *the householders* at each ward may be induced to adopt it. For, by these means, *the householders* might always have a sufficient number of able and well-instructed *substitutes*, to serve for them in the militia, which would thereby be rescued from the opprobrium of *incapacity*, with which it has so frequently of late been charged; and the necessity of any *new reform of the City-Militia* (which might be attended with very dangerous consequences to the rights and liberties of citizens) would be thereby precluded. And if, in case of any more tumults or riots, an *armed City-watch* should again be thought necessary, these disciplined *Militia-substitutes* in each ward might be enrolled in a *Roster* for that particular service, under the proper *Militia-officers*; and their attendance might be so divided and diminished, by



a due *Roster*, as to be very little burthensome to the individuals enrolled; whereby a small stipend to each, for the time of his actual attendance, would be sufficient to render the service *voluntary*.\*

The *Appearance*, also, of the City-Militia might be rendered more respectable, by the addition of *drill-jackets*, with some proper distinction of *uniform facings*, to denote the ward or district of each company.

\* Or *Volunteers* might be invited, by rewarding a certain adequate proportion of *watch-duty* with the *freedom of the city*; and by ordaining that no artificer or journeyman, employed in the city, be molested as a *Non-freeman*, provided he enters himself a *Volunteer* on the watch-roll of the ward wherein he is employed.

## PROPOSALS

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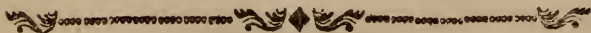
# PROPOSALS and REMARKS

For the Improvement of the

## CITY-MILITIA,

AND FOR

## WATCH AND WARD.





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A respectable and worthy "*Member of the Corporation*" of LONDON having, in the Year 1782, printed "*A Proposal of a Plan for rendering the Militia of London useful and respectable, and for raising an efficient and well-regulated Watch without subjecting the Citizens to additional Taxes or the Interposition of Parliament,*" the following remarks upon it were hastily drawn up by a private Citizen, (viz. G. Sharp,) and delivered to the author of the said Proposal, in order to prevent the establishment of a *regular military corps, with constant daily pay, in the City.*

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THE *Plan, for rendering the Militia of London useful and respectable,* is drawn up with so much good sense,  
O candour,

candour, and real modesty, as well as with becoming zeal for the rights of Citizens and the dignity of our Metropolis, that the worthy Author is certainly entitled to the best acknowledgements and most heart-felt respect of every honest Citizen. He desires the assistance and corrections of all Citizens that will turn their thoughts to the same subject; and, having brought together many excellent propositions, and materials to work upon, has greatly facilitated the business to all that follow him.

The Plan, nevertheless, (in the opinion of *a private Citizen*, who entertains a sincere respect for the Author,) seems liable to *one* objection, which requires very mature deliberation before any actual change be made; and therefore the candour of the benevolent author, in publicly calling for "*corrections and amendments*," cannot be too highly esteemed.

The



The private Citizen is *constitutionally* jealous of every thing that appears like a *regular military establishment*, (i. e. *Soldiers*, embodied, and receiving a *constant daily military SOLD*, or Stipend, as *mercenaries*,) either in the City or in any other place.

The experiment is dangerous, even though the mercenaries should be established under the controul of the *citizens themselves*, and in their *own pay*. To such an establishment, of *Soldiers in constant pay*, may perhaps be attributed the present distresses of the East-India Company, whose troops *divide amongst themselves* the plunder of towns and provinces without controul, though their “*constant pay*” has drained the coffers of their employers !

Not even the most flourishing nations can support (without grievous burthen to the people) the expence of *military establishments in constant pay*: and there-

fore, in all well-regulated Governments, the PEOPLE THEMSELVES ought to be their own guards by rotation of service, as formerly they were: for it was an established duty of all *free-men*, in this kingdom, to be armed and trained, and to keep guard and watch every night, by rotation,\* from sunset to sunrise, in every city, borough, castle, hundred, and wapentake, of the whole kingdom, under the direction of the Sheriffs, Aldermen, Magistrates, Bailiffs, &c. And “the  
 “ Statute of Winchester (13 Edw. I.) did  
 “ ordain, that night-watches should be  
 “ kept yearly, from the feast of the As-  
 “ cention until Michaelmas, by 6 men at  
 “ everie

\* “ Statuimus etiam et similiter præcipimus, ut omnes Civitates et Burgi, et Castella, et Hundreda, et Wapontachia, totius Regni nostri prædicti, singulis noctibus vigilentur, et custodiantur IN GIRUM” (i. e. in Rotation) “ pro maleficis et inimicis prout Vicomites,” (the Sheriffs) “ et Aldermanni, et Præpositi,” (the Magistrates) “ et Ballivi, et Ministri nostri,” (which includes all Constables, Headboroughs, Tithing-men, &c.) “ melius per commune concilium ad utilitatem regni providebunt:” Leges Gulielmi Regis, anno 1067.

“ everie gate of everie City, by 12 men in  
 “ everie Borough Towne, and, in everie  
 “ other Towne, by 6 men or foure men, or  
 “ according to the number of inhabitantes  
 “ in the Towne, a'l the night long from  
 “ sunne-setting to sunne-rising: So that,  
 “ if any stranger did passe, he should be  
 “ arrested till the morning,” &c. (Lam-  
 bard's Duty of Constables, Borsholders,  
 Tithingmen, &c. p. 13.) — “ And  
 “ of these Watches the officers before-  
 “ named have the charges within the  
 “ limites (or places) of their auctorities:  
 “ as, the Constable in his Town, the  
 “ Borsholder in his Boroe,† and the high  
 “ Constable

† Boroe; or Tithing. — “ By the ancient Lawes of  
 “ this realme (before the comming in of King Wil-  
 “ liam” [commonly cal ed] “ the Conqueror) it was  
 “ ordained, for the more sure keeping of the peace,  
 “ and for the better repressing of thieves and robbers,  
 “ that all free borne MEN should cast themselves into seve-  
 “ ral companies, by tenne in eache companie: and that  
 “ everie of those tenne men of the companie shoulde  
 “ be suretie and pledge for the forth coming of his  
 “ fellowes, &c. — And, for this cause, these compa-  
 “ nies

“ Constable within all his *Hundred*; and  
 “ these officers ought to see these  
 “ WATCHES duely set and kept, and  
 “ ought also to cause *bue and crie* to be  
 “ rayfed after such as will not obey the  
 “ arrest of such *Watchmen*.” (Ibid.)

The danger of altering the old *common-law* establishments cannot be rendered more obvious than by the example of the modern regulations which have modelled the Militia of England into a *standing army*, as they effectually destroy the *civil* capacity of all the *private Militia-men*, by withdrawing them entirely from their usual occupations and callings,

“ nies be yet; in some places of England, (and, name-  
 “ ly, with us in Kent,) called *BOROES*, of the said  
 “ word *Borbes*, *pledges* or *suretie*; albeit, in the western  
 “ partes of the realm they be commonly named *ty-*  
 “ *things*, because they contain the number of 10 men  
 “ with their families, and even as 10 times 10 doe  
 “ make *an hundred*, so, because it was also appointed  
 “ that 10 of these companies should, at certain times,  
 “ meete together for their matters of greater weight,  
 “ therefore that general assemblée (or court) was (and  
 “ yet is) called a *hundred*.” (Ibid. p. 7 and 8.)



lings, by which they ought to earn their bread. — The *endless law-making*, which has unavoidably attended the *change*, till the multiplicity of articles exceeds the capacity of any ordinary memory, and the consequent uncertainty and oppression which are occasioned by it, ought to warn us against any thing that has the least appearance of a *similar tendency*; and that is the allowing *constant pay to any part of the Militia*.

The plan, of employing the Militia on the *Watch-duty*, may be so ordered as to stand clear of all these objections, and yet fall nearly within the compass of the expence proposed in the plan: i. e. very little exceeding the present *watch-rate*.

Instead, therefore, of allowing a *constant daily stipend to the volunteers*, (which cannot be done without the danger of inclining them to neglect their proper *civil occupations*, and laying a foundation for a *standing army in the City*, like the Militia

tia of the *Counties*,) let the pay be annexed merely to *the time of actual service* performed in the *watch-duty*: — whereby the *allowance* may be much *increased*, so as to render it (especially when added to the offer of all the city-privileges proposed in the former Plan) a real object of inducement and invitation to a great multitude of inferior housekeepers, artificers, journeymen, shop-porters, carmen, watermen, &c.

And, if a very large number of volunteers can be obtained, the *night-duty* may be reduced, by the *Roster*, to *one night in six*, whereby it will appear less irksome and inconvenient to persons engaged in other employments, (giving them sufficient time to recover their loss of sleep;) and the *increased pay* for actual attendance each night will still appear to be a desirable reward for the service, though divided, by *rotation*, amongst a numerous body of able militia-men.

The



The pay of the present Watchmen does not much exceed  $8\frac{1}{2}$ d. per night; but the annual amount of 13l. for constant nightly duty renders it an object of acceptance to poor old men, who begin to be *incapable* of *daily* labour, and, of course, are equally *incapable* of the active and vigilant duties of a NIGHT-GUARD.

The pay, therefore, ought to be *much increased* to render it worthy the acceptance of *able and active men*. Nothing less than 2s. per night can be supposed adequate to the employment of men that can earn at least 2s. 6d. per day. And, if 2s. 6d. to each man per night could be afforded, the effect of the Plan would be still more certain, and the duty be rendered more creditable and desirable; for which reason, every other expence, that is *not absolutely necessary*, should be withdrawn from the Plan.

P

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The allowance to *the officers* falls under this description: their attendance, to direct and command the watch, would indeed add dignity to the watch-establishment, and might be useful in some particular cases; but it *cannot* be *absolutely necessary*, because the stout, able, and creditable, *volunteers*, from the several regiments of the city-militia, are not less capable of performing the watch-duty under the direction of the present *civil officers* and *constables*, than the poor decrepit old men usually employed. The attendance of the officers, therefore, after the *setting of the watch*, cannot be *necessary*, and ought to be dispensed with, because the *nightly pay of the volunteers alone, when on duty*, will amount to as much expence as can possibly be afforded for a constant establishment. The main object of the new regulation will nevertheless be fulfilled, viz. the “*rendering the Militia of Lon-*  
*don*”

“*don useful and respectable* ;” for the officers, as inhabitants of rank and substance in the City, will have the satisfaction of seeing a large body of able men encouraged by the proffered emoluments to inroll themselves under their command, in order to be kept in *constant training and exercise after the hours of labour*, whereby they will be enabled to appear with credit and honour to their officers and to the City at large, whenever it may be necessary to call them out, in their *military capacity*, as *substitutes* in the *London Militia*.

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Instead of 176 non-commissioned officers and volunteers, (as proposed in the former Plan,) let a battalion of 500 *volunteer-auxiliaries*, viz. 5 additional companies of 100 men each, (if so many can be obtained,) be admitted for *watch-duty* in each of the *six* regiments of City-Militia, which will amount, in all, to 3000 *auxiliaries*, to be encouraged by the offer of all the city-privileges, (as proposed in the former plan,) with the addition of

Per Annum.

£. s. d.

2s. each man per night, while on watch-duty; viz. Each battalion of 500 men, in rotation, every 6th night, and to be then constantly exercised, by the Adjutant-Captain and *Serjeant Major*, one whole hour before the setting of the watch, over and above the ordinary times proposed for training. The constant nightly pay of 500 men, on watch-duty, will amount, at 2s. each, to — — — — —

18,250 0 0

In order to regulate and facilitate the command of so large a body of men, let every 10 men, in each battalion of *auxiliaries*, choose a *Tithing man*, to be sworn as *Constable*; to be answerable with his *decennary* to produce any man of the 10 that happens to be charged with a misdemeanor, and to act as *Serjeant* in the military Exercise, previous to the setting of the watch; and more particularly to answer for the attendance of his *decennary* in due rotation, and to provide able substitutes for the sick or absent.

Fifty such *watch-tithing men* in each 500, with an additional allowance of 1s. each per night of attendance, (in all 3s. per night pay) will amount to — —

912 10 0

And 50 Corporals chosen in each *tithing*, as above, with the addition of 6d. per night — — — — —

456 5 0

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Carried over £19,618 15 0

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Per Annum.

£. s. d.

Brought over 19,618 15 0

If the *Adjutants* be chosen from among the Captains, their trouble of taking care of the *roster* for each regiment, and marching the five companies of *auxiliaries*, from each, in weekly rotation, to the city guard-rooms, may be amply rewarded (provided their attendance is not required after the watch is set) by the allowance of *one guinea* each evening of attendance, which is £63 17 6 per annum to each of the six *Adjutant-Captains*, and will amount to — — — —

383 5 0

One Serjeant Major, from each regiment, to be paid 5s. per night, in weekly rotation, for setting the watch, and keeping the proper account of the *roster* under the Adjutant-Captain of each regiment, amounts to — — — —

91 5 0

Twelve drums and fifes, as proposed, at 1s. per day each; or rather 8d. per day, and 2s. every 6th night, in rotation, for attending the *watch*, in order to serve as messengers to alarm the officers and magistrates in case of riots, fires, &c. —

219 0 0

Query. On what establishment are the 12 *City-trumpeters* and city-waits?

Powder and other charges as estimated in the plan by the "*Member of the Corporation*" — — — —

150 0 0

£20,462 5 0

The



The amount of the watch-duty and trophy-tax	— — —	23,030 12 4
Deduct	— — —	20,462 5 0
		<hr/>

Surplus by the Plan of the		
“ <i>private Citizen</i> ”	—	£ 2568 7 4
		<hr/>

Watch and Trophy Tax	23,030 12 4
Plan by the “ <i>Member of the</i>	
“ <i>Corporation</i> ”	— — 21,569 17 0
	<hr/>
Surplus	£ 1,460 15 4
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Surplus by the Plan of the	
<i>private Citizen</i>	— — 2568 7 4
Surplus by the former Plan	1460 15 4
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Difference	— —	£ 1107 12 0
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So that the surplus, of the plan proposed by the “ *Member of the Corporation*,” is less by £ 1107 12 0 per annum than the surplus which may be saved by the plan of the “ *private Citizen*,” though the latter includes the *training and continual readiness in discipline* of nearly three times the number of volunteers, viz. 3000 rank and file.

	20,462 5 0
Watch-rate	18,343 19 0
	<hr/>

£ 2118 6 0	per annum deficiency in the
	<i>watch-rate</i> for this service.

If this deficiency could be made up by an equal additional rate on the whole city, it would be better than blending the expence with the *trophy tax*.

Perhaps the number of *watchmen* might be diminished, if barrier gates and posterns were erected at every avenue into the city, and be duly attended by an armed



armed guard from the city *trained bands*, whereby a less number will be necessary for the internal guard.

Memorandum. Since this proposal was offered as above, I have been informed, that even each ward, or division, of all the large cities in Japan, is separately inclosed with palisades; and that they will retain some resemblance of the old divisions of *Ti-things* and *Hundreds*, &c.

By the above proposal, a whole battalion of 500 men (*viz.* all the 5 companies of *auxiliaries* from each regiment in rotation) is required to be *on duty at one time*: but I believe it would be an essential amendment of that proposal, if only one company of *auxiliaries* were to be sent for watch-duty every night from five of the six regiments in rotation; whereby each of the 6 regiments would keep up within itself a constant *roster* of *duty* and *rest* for their respective five companies of *auxiliaries*, *viz.* 1 company every night for five nights in rotation, with *rest* or cessation on the 6th night; which *rest* must also be regularly circulated amongst all the 6 regiments, so that

no man's duty should exceed 1 night in 6; and yet five companies, or 500 men, would be constantly sent on duty every night, as before proposed. But, if the whole number of *auxiliaries* here proposed, were really completed and duly disciplined, it would perhaps be found, that *four* complete companies, on duty at one time, would be a sufficient guard in the city, because all the disciplined men of the other companies, though not on actual duty, would be ready at hand (as being inhabitants of the City) to assist the watch, in their respective neighbourhoods, in case of any sudden alarm of fire, riot, or robbery. And, by that reduction of one company from the constant duty, a saving would be made of £3923 15s. per annum, which would reduce the expence far within the compass of the ordinary *watch-rate*, and would

would reduce the duty of each individual to every 7th night.

GRANVILLE SHARP.

# PROPOSALS and REMARKS, &c.

*Delivered, in Writing, to a respectable  
MAGISTRATE of London, by GRAN-  
VILLE SHARP, in the Year 1781 or  
1782, to promote the TRAINING of  
the City-Militia.*

THAT the Court of Lieutenancy order proper muster-rolls to be made, for each ward of the city of London, of the names of all persons liable\* to be called to serve in the city-militia, or of such proper

Q substitutes

\* The persons, liable to be called to serve in the Militia, according to the Common-Law, are the *Householders*, who pay taxes, rates, &c. And all other persons, viz. Lodgers, Journeymen, Apprentices, Servants, &c. when embodied and disciplined in arms, are, in London, deemed *Volunteers* and *Auxiliaries* to the Militia. See a former Tract.

substitutes as they shall appoint to appear for them.

That these principals and substitutes be regularly *numbered* in the muster-rolls opposite to their names, that they may be summoned, in rotation, to a place of *training* and exercise in *their own ward*. The numbers, summoned each day upon the Roster, (or list of rotation,) to be settled in proportion to the number of militia-officers that can be daily appointed to the service of *training* the inhabitants.

The *training* may be so conducted as to occasion *no expence* to the *householders*, if it be limited to a single hour (or not exceeding one hour and a half or two hours) in the evening, between six o'clock and sun-set in summer. For such *householders*, as cannot attend in their own proper persons, may easily find some one of their own family or dependents that would be willing to spare  
so

to short a space of time in an evening *for their own improvement*, provided they are *to be paid* when called out to actual duty on watches or general musters.

The *Rosters for training* should be separate and distinct from the *Rosters for watch and ward*. The former may, without inconvenience, consist of a much larger number of persons to be summoned in rotation *for training*, as the time of their attendance will be short, and therefore not burthen some; and this need not be continued any longer than till each individual has attended ten or twelve times in rotation, or so often as may be sufficient for him to acquire the common platoon-exercise. But the *Rosters for watch and ward* should be divided into a circulation of small parties, that the inconvenience of night-duty may return as seldom as possible, in rotation, to each individual.



As the number of the city-militia is computed at 6700 men, and the established number of serjeants amounts to no more (in all the six regiments) than 144, there is a proportion of above 46 private men to each serjeant, which is near five times more than the usual compliment of a serjeant's guard; so that there may be a complete change of nine men every day to each serjeant, and yet this *rotation* to each individual of the housekeepers would be only once in five days, or of six men once in seven days; but, if the inhabitants in general, that are not housekeepers, are allowed to *associate* with the Militia, and enter their names in the muster-rolls as *volunteers* or *auxiliaries*, the number to each serjeant may be increased, so that the *rotation of service* may be reduced perhaps to once a fortnight for each individual.

Those inhabitants, who distinguish themselves in acquiring the necessary discipline,



discipline, should be appointed (by the election of their neighbours in each ward) as assistant-serjeants or corporals, that, in case of any *general alarm* or insurrection, there may be *one* experienced leader to every *ten* men.

All *associates, volunteers, or auxiliaries*, before they are admitted into the muster, should subscribe to a general agreement, that they will submit to such fines or forfeits, for neglect or misbehaviour, as shall be previously agreed upon.

The act\* ordains a pecuniary mulct not exceeding five shillings, or the penalty of imprisonment not exceeding twenty days, that is, for "*mutineers, or such as do not their duties as soldiers at the day of their musters and training.*" See the eighth section. But many smaller forfeits should also be ordained, by common agreement, as forfeits, 1st, for *talking* when under arms; 2dly, for co-

\* 13 & 14 Cha. II. c. 3.

ming after the appointed time, and that in proportion to the time lost; 3dly, for being in liquor; 4thly, for drinking any liquor stronger than small beer while on duty; 5thly, for leaving duty before the appointed time, &c. &c. and a severe fine should be laid on any man who presumes to fire his musquet after the watch is set, unless there should be any real occasion for an alarm. — Whenever the penalty of imprisonment is inflicted, it ought to be done with the greatest caution, by the judgement of a jury of citizens, and the period should be shortened as soon as proper submission is made. Delinquents ought to be kept in separate cells or apartments, in perfect solitude, and be allowed no sustenance but bread and water, as well for the sake of *health to their bodies* under confinement, as for the more speedy recovery of the natural powers of *their minds* in returning to *right reason*.

Every

Every company should have a *Clerk* of the band, chosen as the rest of the officers, who should keep a list and take notice of all defaults and other offences, and are required “to render an account  
“of all fines and penalties, to the cap-  
“tain or chief officer of every company,  
“in six weeks after they are levied;” — to view, twice a year, the arms and ammunition of the soldiers and all the inhabitants, and return his account of defaults to the captain, and collect all fines laid for the same.

These fines, for defaults, are to be laid out by the clerk to procure trophies for the company, &c. “or provide  
“arms and ammunition for the poorer  
“fort.”

A Committee to be appointed (by the wardmote) in every ward, who shall attend, in rotation, to see the watch set, and take notice of any defects or abuses.

— “Every committee, in case of any  
“alarm,

“ alarm, are required, with all possible  
 “ speed, to give intelligence to the next  
 “ magistrate and to the major of the  
 “ regiment.”

“ Military watches to be set at half  
 “ an hour after sun-set.”

As all strong liquors should be *absolutely forbidden* during the time of watch and ward, some refreshment, as *salop* or *frumenty*, (which latter was a principal part of the sustenance of the Roman soldiers,) might be allowed in each guard or vestry room; and the expence (after proper vessels were provided) would be very trifling.

The modern complement of a company is much too small, and grievously enhances the expence of the militia when ordered out on service, because of the officers pay. A company (or captain's command) ought never to be less than 100 or 150; but the great Sir Walter Raleigh asserted, that “ a captain ought

“ to



“ to command 1000 men,” which is now near twice the command of a colonel. See Hist. of the World, 2 vol. p. 475. Sir Walter was a very good judge of this subject, and has pointed out the inconvenience of having *many officers* in the army. — The doctrine, at this day, is totally reversed. However, in mustering and training the inhabitants of cities, where there is a necessity of *establishing a rotation*, to lighten the duty to individuals, (that no man may be injured in his *civil capacity* by too frequent service,) a company might consist of 1000 men, without any detriment to the service, provided that every 10 men be allowed to choose themselves a serjeant, or that the inhabitants at large choose a sufficient number of serjeants for every 10 men, as before proposed. The expence of one captain to 1000 men, or even to 500 men, would be very trifling.





## I N D E X.

## A.

*ABSOLUTE* will of a monarch over his subjects, a mark of the beast, 61, n.

*Acherley*, Mr. cited, 68, n.

*Adomar*, bishop of Winchester, 68, n.

*Aland*, Mr. Justice Fortescue, cited, 19, 27.

All persons, of *all* ranks, that are laymen, (*apprentices*, servants, labourers, wards, &c.) required to have arms, to be *exercised* in the use of them, 9-24, 99.

*Antidote* against the evil of *royal will*, 61, 2d n.

*Apprentices*, &c. should be encouraged by the house-keepers to learn the *military exercise*, 99.

*Archery*, 11, 12, 13, 14.

*Armour*, 10.

*Arms* of defence and peace, 6, 17, 19, 24, 27.

*Arms* of offence and robbery, 7, n.

*Army*; see *Standing army*.

*Association*. To *associate* for common defence is a right of the people, founded on the law of *reason* and *nature*, and therefore an *immutable right of the common law*, which cannot be annulled by act of parliament, 5-9. Ancient statutes bear testimony to this popular right of *association*, and the being *exercised in arms*, 9-18. These *rights* as necessary, at present, as ever, 24. Had they not been fatally neglected, the late rioters would have been quelled in their first attempts, 25. The purpose of *military Associations*, 91. They should be formed on principles as opposite as possible to those of *standing armies*, *ibid. viz.* in preserving the *civil capacity* of individuals, and by

the *freedom of election* in the appointment of officers, 92. The choice of tithing-men, or serjeants, *ibid.* The lord-mayor or sheriff the legal commander of them, 93. Platoon-exercise recommended, 93, 94. Places for drilling to be appointed, 94. also a general rendezvous in each ward, 95. Precautions, that the *civil capacity* of individuals may not be injured, 95-97. Small parties should not be permitted to march into the country, without leave from a general meeting, and due caution for the peace, 97. *Associations* should not *unnecessarily* march through streets or high-roads, nor make any *military parade*, but consider themselves as part of the *civil state*; not to use arms in common cases; not to attend to any *private person* that shall presume to raise the power of the county, but wait for a *legal summons*, before they *take their arms* to assist in keeping peace; 98. but may assemble, as neighbours, *without their arms*, to use all peaceable endeavours, &c. 99.

*Atkins*, judge, cited, 58, 59.

## B.

*Babylonian government* described, 61, 64.

*Bacon*, Nathaniel, cited, 23.

*Barriers* of the city ought to have been reserved, 25, 118.

*Beasts* are the prophetic emblems of arbitrary dominion among men, 60-64. *Beast* of the Babylonian monarchy, 61-64, n. *Beast* of the Medo-Persian monarchy, 64, n. *Beast* of the Grecian monarchy, 64, n. The last, or 4th, *Beast*, which still exists in power, 65, n. The law of England guards against the *bestial power*, by requiring due limitations in government, 65-69.

*Belluina potestas*: what it is, 60-61. how introduced, by innovations, corruptions, and standing armies, 69, n.

*Bland*, general, his description of a roster, 37, 38. His account of the *platoon-exercise*, 93.

*Bows and arrows*, 11, 12, 13. called the *continual defence of the realm of England*, 14. Legal distance for shooting with them at a mark, 12.

*Braclon*, cited, 6; 21; 22, 24, 29, 65, 67.

*Butts*, 12, 13, 15, 16.

*Calvin's*

## C.

*Calvin's case*, reported by lord Coke, contains many instances of erroneous doctrines, 29.

*Camp of discipline*, 45. *Camp of service*, 46.

*Canutus* the great; a notable instance of his virtue and justice, in *withdrawing his armies from this realm*, on the requisition of the peers of England: the consequences of that noble action are misrepresented by the judge who cited it on Calvin's case, 29-32.

*Cherubin*, a type of the hosts of Israel, acting by *rotation*, 40, 41, n.

*Choice of officers* by public *folk-motes*, 58. by *décennaries*, 92, 116. by *platoons*, 93. by a *general meeting*, 92, 93, 125, 127.

*City pike-men*, 57.

*Civil capacity* of individuals, serving in the militia, may be preserved by the *regularity of rotation*, and precaution in training, &c. 37, 41, 43, 47, 92, 95, c6. but is gradually lost by long continuance in service, whereby the *national militia* are rendered mere *soldiers*, 47.

*Clarendon*, lord, cited, 54-58.

*Coke*, lord, cited, 21, 22, 29-31.

*Command*, when not duly limited, is *merum imperium* and *belluina potestas*, 59, n. &c.

*Commandment of the king*, according to law," 21, n.

*Commandment of the king*, which falls not within this description, not binding, 21.

*Confessor's laws*, cited, 19.

*Connecticut*, 58.

*Corwell*, Dr. quoted, 6.

*Cromwell*, the usurper, kept up an *army* to support himself and his tyranny, 27, n.

## D.

*Daniel*, quoted, 60, 61.

*Décennaries* should choose their own *tithing-men*, or *serjeants*, 92.

*Declaration of rights*, 17.

*Defence*, against unjust violence, a *natural right* of man, 6-9.

*Devil*. He is a minister of the *Devil* who commits injustice, 22, n. 66, n.

*Discipline*.

*Discipline*, (military,) sufficient for *real* service, easily acquired, 58.

*Disloyalty*, 30, n.

*Doctor and Student*, quoted, 7, 8.

*Drilling* and private exercise in arms, 94, 95.

## E.

*Earth* is filled with violence, 7, 62, n.

*Eirenarcha*; see *Lambard*.

*Election*. See choice of Officers.

*Elements* of tempest and fire reserved to execute God's wrath, 7, n.

*Emperor*, the original signification of that title, 59, n.

*Englishman*. No Englishman can be *loyal*, who opposes the principles of the *English law*, which require the people to be armed, 27, 30.

*Executive power* of this limited monarchy cannot legally flow through any other channels than the king's courts of justice, by *due process of the law*, 21, n.

*Exercise*, (military,) 11-14, 16, 18, 54, 58, 99. *Places* for it should be appointed in each ward, 94, 122. and *hours* for it, both in the morning and evening, 95. *Public exercise*, in large bodies, not to be more frequent than is necessary for a moderate and useful discipline, 95. No food or liquor to be taken while out on exercise, 96, 97, 126.

## F.

*Fire*; see *Elements*.

*Fleta*, 22, n.

*Force*. It is lawful to use *force* to repel *force* and *unjust violence*, 6-9.

*Fortescue*, chancellor, 18, 19.

*Freemen*. None but *freemen* ought to be trusted with arms in a *free country*, 30, n.

## G.

*Gisarms*; what they are, 11, 2d n.

*Good and evil*. The right of judging between *good* and *evil* indispensable to *man*, to distinguish him from the *brutes*, 60-64.

*Government*,



*Government*, by arms and armies, odious to the ancient English nobility, 30, 32. Every *Englishman*, who has not the *same distaste*, is *disaffected* to the true constitution, and may be justly charged with *disloyalty*, 27, 30, n.

*Grecian dominion*, or empire, 64, n.

*Greece*. Causes of disunion among the ancient states thereof, 39, 40.

## H.

*Harnesse*, 10.

*Hue and Cry*, 20.

## I.

*Image of tyranny*, 60, n.

*Inhabitants of every city, borough, and market-town*, may have guns, and exercise themselves in the use thereof, 16, 17, 18. Ought all to be armed, and be expert in arms, 18-20. Are *themselves* the proper power to prevent damages by rioters, 20-25. There is a greater necessity for arming and training them than formerly, 26.

*Innovations*. Triennial and septennial elections, 69, n.

*Inquiry into the legal Mode of suppressing Riots*, cited, 98.

*Israelites*. The *Laws of God* were so openly tendered to the people, and by them so amply confirmed by repeated declarations of popular assent, that they became the regular *statutes* of that nation, 61, 2d n.

## K.

"*King can do no wrong*;" this doctrine explained, 21, n. King has no *prerogative* which may derogate from justice and equity, 21, 22, n. Ceases to be *the minister of God*, and becomes *the minister of Satan*, when he presumes to rule *contrary to law*, 22, 66. *No legal king, where WILL governs, and not LAW*, 22, 61, 2d n. 65, 66. Antidote against *royal WILL*, 61, 62, 2d n. King should be *limited* by the laws of God, and is bound to read therein, that he may "*not lift up his heart above his brethren*," 62, 2d n. for, if duly limited, the *crown* (or dominion) will not be liable to be broken by the approaching kingdom of God, 63. King is *supreme* in personal rank, but not in power, 66,

66, 67, n. King has a *superior*, viz. God; also the *Law*, also his *Court*, (*i. e.* of parliament, earls, barons, &c.) 67, n. King Canute, 29-32. King Richard II. 27. King Henry VII. 27, n. King Henry VIII. 13, 14, 18, 27, n. Q. Elizabeth, 17. King Charles I. 66. King Charles II. 27. King William, 28, n.

*Kingdom of God* will destroy the tyranny of all temporal *empires* and *kingdoms*, and will fill the whole earth, 60, n. under the whole heaven, 63, 2d n. Nothing but *righteousness* and the due limitation of *WILL*, by the laws of God and the just rights of the people. can save any crown (or regal dominion) from being broken to pieces by this approaching *KINGDOM*, 63, n.

## L.

*Lacombe*, Mr. 11, n.

*Lambard's Eirenarcha*, cited, 9, 11, 12. *Lambard's Duty of Constables*, 109.

*Laws of reason and nature* immutable, 8. Those who attempt to subvert the ancient laws lose the benefit of the laws, 27, n.

*Laymen*, of all ranks and conditions, required to have arms, and be exercised in the use of them, 9-24, 99.

*Limitation of government*. The want of it induces the princes of the world "to lift up their heads above their brethren," whereby they are rendered dreadfully obnoxious to the vengeance of the approaching kingdom of God, 62, 63. The want of it is an abomination in the eye of the English common-law, 65, n.

*London*. If the proper barriers had been reserved, the citizens would have had time to get under arms on the first notice of the late riots, and might have preserved the peace of the city: an attack upon the gates would have justified an immediate discharge of fire arms, 25. The inhabitants themselves form that proper power, from which the law requires the prevention of damages from rioters, 25, 26. Remarks on the militia laws for London, 71. Remarks on a plan (by a member of the corporation) for rendering the militia of London useful and respectable, and for raising an efficient watch, 105.

*Long bow*. To be exercised in the use of it was formerly the duty of every man, 14. The reason of the law doth equally



equally require the general exercise of *all men* in the use of the musquet and bayonet, 15.

*Lord mayor* and sheriffs, the *legal* commanders of military associations, 9.

*Loyalty*. No Englishman can be *loyal*, who opposes the principles of the English *law*, whereby the people are required to have *arms or defence and peace*, 27. nor who does not *dislike* a government by *arms and armies*, 30.

## M.

*Matthew*, of Westminster, cited, 32.

*Medo-Perſian* dominion, 64, n.

*Merum imperium*, 60, n.

*Metastafius*, (Le pold,) cited, 60, n.

MILITIA. A *general militia*, acting by *rotation*, the only safe means of defending a *free* people, 35-49. The *militia* of England might supply a constant army in the field of 125,000 men, and yet retain, in every part of the country, eleven parts out of twelve of its strength, duly trained by the rotation, 42, 44, 46. Might afford to lose six such capital armies, before it would be necessary to double the time of service on the roster, 46, 47. *Militia*, without rotation, becomes a *standing army* of mere *soldiers*, 47. *Militia* of London; see *Trained Bands*. *Militia* of the counties; the present establishment thereof favours too much of a *standing army*, 59. Should be constituted on principles as opposite as possible to *standing armies*, 66-68. *Militia* of New-England and Connecticut, 58. A *free militia* the only just means of internal national defence, 69, n. *Militia* laws, for the city of London, remarks thereon, 71-87. Remarks on a late proposal by a member of the corporation, for rendering the *Militia of London* useful and respectable, for raising a well-regulated watch, &c. p. 103. to the end.

*Minsheu*, cited, 10.

*Musquet and Bayonet*. The laws, which required *every man* to be exercised in the use of the *long-bow*, when esteemed the most effectual weapon, by parity of *reason*, do equally require the exercise of the present fashionable weapons, the *musquet* and *bayonet*, 14, 15.

*Musquets*, or hand-guns, the right of all the inhabitants of cities, boroughs, and market-towns, to be armed therewith, acknowledged by statute, 15, 16, 17, 18.

*Myrror of Justices*, cited, 20.

## N.

*Necessity* of rejecting the dangerous expedient of keeping standing armies for defence, 36.

*Newbery*. Account of the battle near that place, 55-57.

*New-England militia*, 58.

## O.

*Odimus accipitrem*, &c. an old English maxim never to be forgotten, 30-32.

*Officers*. See choice of Officers.

## P.

*Parliaments* ought to be newly elected every session, 68, n. and in an equal proportion of representation, which would be most conducive to the true interest both of king and people, 69, n.

*People*. Their right to associate for common defence, 5-9. and to repel force and injury with force, 6, 7, 8. To have armour, harness, arms, 10, 13. To be exercised in the use of such arms as are esteemed the best for the safeguard of the realm, 14-24. Their power (*viz.* the power of the commons in parliament) is independent, 68, n.

*Persian Government*; see *Medo-Persian*.

*Petrus de Montford*, 68, n.

*Platoons*, 93, 94.

*Power of the commons* is independent, of which an example is cited, 68, n. There is no supreme power without their concurrence, 68, 69, n.

*Power of the county*, 9, 20.

*Power of the king* is not supreme, 66-69, n.

*Prerogative*. No prerogative of the king against justice and equity, 22, n.

*Process of the law*, through the king's courts, is the only proper mode of exerting the executive power in this limited monarchy, 21, n. and the sheriffs, attended by the  
power

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*Protestant subjects* may have arms for their defence, 17.

R.

*Rapin*, cited, 55, 56.

*Reason*, the first foundation of English law, 8. The laws of *reason* are immutable, *ibid*.

*Rendezvous* (general) should be appointed in every ward, in case of sudden alarm, 95.

*Resistance* against unjust violence *lawful*, 6-9, 24.

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*Righteousness* alone can establish the throne, 22, 63.

*Rioters* (the late) would have been quelled in their first attempts, had not the ancient English constitution, respecting the use of arms, been fatally neglected, 24, 25.

*Robbers, &c.* The means of repressing them, p. 109, n.

*Roman dominion*, 65, n. 69, n.

*Roster*, or rotation of *service*, as proposed for a general national militia, 36-47. *A general rotation* of public duty may be compared to the *cherubim*, representing the hosts of Israel, 40, 41, n. and would preserve the people in their *civil capacity* and *ordinary occupations*, 41. and limit the power of commanders, without *injuring individuals*, 42. The proportion of a *roster* for England, 41, 43. *Roster* for the city watch, 100, 101, 112, 117, 119, 120, 122, and 123.

*Rupert*, (prince,) with the choice horse, repulsed by the city *trained-bands*, 55-57.

S.

*Scriptures*, (holy,) cited: *Exod.* xxiv. 37. p. 61. — *Deut.* xvii. 18, 20. p. 61. — *Pf.* lxxv. 6. lxxvi. 12. p. 63. lxxxiii. 13-15. cxlviii. 8. p. 7, n. — *Isai.* xvii. 13. p. 7, n. *Dan.* ii. 35. p. 7, n. ii. 35-44. p. 60, 61. v. 19, 20. p. 63. vii. 27. p. 63. vii. 4. p. 64. xi. 3. p. 64. xi. 36. p. 65. — *2 Theff.* i. 8. p. 7, n. — *2 Pet.* iii. 7. p. 7, n. — *Rev.* xi. 18. p. 61.

*Skippon*, (major-general,) 54.

*Serjeants*, 92.

*Servants, &c.* should be encouraged to learn the military exercise, 81. that there may be always a sufficient

number of persons well instructed, to serve as substitutes in the militia, or *armed city-watch*, 100.

*Sheriffs* to raise the power of the county, 9, 10, 20, 21.

*Sold-iers*, dependent on their military *sold*, are apt to acquire a slavish and *dishonourable* submission to *command*, 47-49, 59-60, n. and to give up the indispensable human right of judging between *good* and *evil*, 60-62. whereby *standing armies* are constantly the bane of all good and *limited* government, 63, 64.

*Standing army*. The establishment thereof in England affords no argument against arming and training *the inhabitants in general*, 26. The expence of the standing army enormous and ruinous, 26. and the establishment of it repugnant to the constitution of England and the genius of its inhabitants, 27, 28. Is dangerous and fatal to the liberties of every nation upon earth, 35, 49, 60. as well as to the true permanent interest of *le al kings*, 63, 2d n. Is the bane of all *limited government*, 63, 64 and is the regular means of introducing the *belluina potestas* of imperial *will*, against which divine vengeance is announced, 69, n. The first appointment of guards, and the encroachments that ensued, 27-29, n.

*Statutes*, cited, 13-18, 20, 108.

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## T.

*Taylor*, (bishop,) cited, 66, 67, n.

*Tempest and fire* reserved to execute God's wrath, 7, n.

*Tithing-men*, 74.

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*Vicar* and *minister of the eternal King*. Such is a king who limits his power by justice and law, 22, n. 65, n.

*Voluntary service*, in an armed city-watch, or as militia substitutes; how to be promoted, 100, 101.

*Voluntas*; see *Will*.

## W.

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*Watch-duty*. Volunteers to it, how to be encouraged, 101; Watch and Ward, 108.

*Weapons*. Such as are liable to be concealed, unlawful, 18.

*Will*, (or *voluntas*,) when it governs, and not law, destroys the legal authority of the sovereign, 22, n. 65, 66, n.

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*Wolsey*, (cardinal,) 27.

THE END.











